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CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY.

COMPILED BY

JAMES MORRIS,

FIRST ASSISTANT REGISTRAR TO THE SUDDER ADAWLUT.

108409

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CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN JANUARY 1855.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

1855 January 3.

TANNA.

[Case No. 54 of the Calendar of the Konkun Sessions Court for 1854. Committed by Mr. R. H. PINHEY, Assistant Magistrate of Tanna, on the 17th August 1854. Tried by Mr. R. KEAYS, Session Judge, on the 21st, 22nd, 23rd, and 24th August 1854. Proceedings submitted for the confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoners.—No. 1, Nowsoo wulud Dhakoo, Agiwla Thakoor, aged 20.

Gang Robbery, with Murder, by Night.

2, Kanoo wulud Soma, Kudkya Thakoor, aged 35.

3, Govinda Duma, Bhula Thakoor, aged 20.

4, Goma wulud Sukhojee, Agiwla Thakoor, aged 20.

5, Khundoo Awujee, Kudkya Thakoor, aged 22.

6, Shiwa wulud Newujee, Bhugut Thakoor, aged 25.

7, Bhewa Timajee, Kudkya Thakoor, aged 28.

8, Kumya Dawujee, Agiwla Thakoor, aged 20.

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Gang Robbery, with Murder, by Night.

Prisoners.—No. 9, Chima Dawujee, Sangole Thakoor, aged 20.
10, Bhow Zanoo, Erutya Thakoor, aged 25.
11, Chima Huree, Bhugut Thakoor, aged 15.
12, Kuma Nowsoo, Birtya Thakoor, aged 20.
13, Chima Kumbhoo, Télum Thakoor, aged 25.

Charge.—Gang robbery, with murder, by night (Regulation XIV. of 1827, Section XXXVII. Clause 1st; and Section XXVI. Clause 1st of the same Regulation); in that they did, at about 7 P. M. on Saturday the 17th day of June 1854, (*i. e.* Jésht Wud 7th, Shuké 1776,) at the hamlet of Kookray, of the village of Khotayray, in the Kolwan District, Zillah Konkun, forcibly enter the house of Pud Patel bin Ragh Patel, and, having beaten the inmates with sticks and other weapons, did rob them of money, jewels, and clothes, valued at Rs. 37.

And in that they did, at or about the same time and place, forcibly enter the house of Kan Patel bin Mahad Patel, and, having beaten the inhabitants with sticks and other weapons, did rob them of money, jewels, and clothes, valued at Rs. 94-7-0.

And in that they did, at the time and place specified in the second instance of the charge, whilst robbing the house of Kan Patel bin Mahad Patel, kick and beat with sticks an old woman, named Ambee, the mother of Kan Patel, aforesaid, thereby inflicting injuries, whereby the said Ambee did die on the third day, *i. e.* on Monday, the 19th day of June 1854.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The prisoners are accused of gang robbery, accompanied with

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TANNA.

Gang Robbery, with Murder, by Night.

murder, in the instance set forth in the charge recorded at the head of these proceedings.

From the evidence of the complainants Kan Patel and Pud Patel, that of Kan Patel's wife Sukee, a woman named Bunaee, and Ambo Pal Patel, it is clearly proved, that at the time and place specified in the charge, a gang of robbers came and attacked their houses, and robbed them of property to the value of Rs. 131-7-0.

That in the perpetration of this robbery, they severely beat with sticks, and otherwise maltreated the inmates of the house, and more particularly the mother of Kan Patel, named Ambee, who was an old woman, and who, it is proved by the Punchayet, died from the effects of the beating the third day after the assault; and the point to be now considered is whether the prisoners at the bar were the persons who committed the offence.

Information of the robbery having been sent to the Police Authorities immediately, they arrived at the 'pada' as soon as possible, and proceeded to institute inquiries; and they ascertained that some Thakoors had come down from above the Ghauts, for the ostensible purpose of mending a cattle-shed, and that amongst them was one man who had been recently in prison, having been convicted of robbery. On this suspicion, they proceeded to the village of Barlee, where he resided, and took him into custody. He at first denied all knowledge of the robbery, and so the Police then proceeded to apprehend a person named Govinda (prisoner No. 3), who was this person, Kanoo's (prisoner No. 2) constant companion, and he immediately confessed that Kanoo, himself, and eleven others, inhabitants of the village of Bhowlee, had committed the robbery. The Police then proceeded to Bhowlee, and took these eleven persons, who are the other prisoners at the bar, and they one and all confessed. Their houses were then searched, and the following property, identified by the complainants as a

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TANNA.

Gang Robbery, with Murder, by Night.

portion of what was stolen from them, was discovered, viz :—

In the house of prisoner No. 4 (Goma), a 'khadee roomal.'

In the house of prisoner No. 6 (Shiwa) a khadee roomal.

In the house of prisoner No. 9 (Chima Dawujee) nothing; but he said that he had received a khadee roomal like the two already discovered, as a portion of his share of the plunder, and that it would be found in the house of prisoner No. 12 (Kuma bin Nowsoo), and it was there found with Kuma's own roomal.

In the house of prisoner No. 12 (Kuma) two khadee roomals, one being Kuma's share, the other Chima's (prisoner No. 9), a 'dhotur,' a sword, and ready money Co.'s Rs. 11. The money Kuma explained had been given to him by prisoner No. 2 (Kanoo), to divide amongst the eleven men of his village who had been engaged in the robbery.

In the house of prisoner No. 13 (Chima Kumbhoo) one white 'pugree.'

At this stage of the inquiry, when he discovered that the rest of the prisoners had confessed, and had given up their shares of the property, prisoner No. 2 (Kanoo) confessed, and on his house being searched, the following articles were found concealed behind some wood, viz. a white pugree, a cloth bag, and a 'vila' or sickle.

The whole of the property now found in the prisoners' houses was, as has been stated above, identified by complainants, and it is proved to belong to them by other evidence.

The Police next proceeded to inquire from the prisoners what had become of the gold and silver ornaments which had formed a portion of the plunder, and were informed by prisoner No. 1 (Nowsoo) and prisoner No. 4 (Goma) that they had left them with a

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Sonar named Babajee, of the village of Pimpree, who had agreed to give them Rs. 15 for them. The Jemadar and a Sepoy of the Ghaut Police Corps were therefore sent with the above-named two prisoners to the village of Pimpree, where the prisoners pointed out the house of the Sonar. The Police took him into custody, and after a little demur at first, the Sonar admitted that the prisoners had brought the ornaments to him, and desired him to make them up into others. This he had partially done, and produced two silver armlets, one large and one small, two pieces of silver ingots, and a small piece of gold. As the Magistrate has handed up this Sonar and another person, who assisted him in melting up the ornaments, for trial before this Court, on a charge of receiving property, knowing, or having evident grounds for supposing that it was stolen, the Session Judge was unable to take their evidence in this case; but as it is clearly proved by the evidence of the Subedar, Jemadar, and Sepoy of the Ghaut Police, that the said Sonar Babajee did make the above admission, and produce the gold and silver now before the Court, and as these articles were discovered on information supplied by the prisoners No. 1 (Nowsoo) and No. 4 (Goma) in the present case, the Session Judge is of opinion that the evidence of the Sonar was not essential.

Now it is proved that the whole of the prisoners fully admitted the truth of their confessions before the Police Amuldar of Kolwan, and under these circumstances the Court is of opinion that the charge is clearly established against the following prisoners: No. 1 (Nowsoo), No. 2 (Kanoo), No. 3 (Govinda), No. 4 (Goma), No. 6 (Shiwa), No. 9, (Chima Dawujee), No. 12 (Kuma), and No. 13 (Chima Kumbhoo); and these prisoners are accordingly and therefore convicted of gang robbery, accompanied with violence and murder, in the instance set forth in the indictment which heads these proceedings.

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Against the remainder of the prisoners, viz. No. 5 (Khundoo), No. 7 (Bhewa), No. 8 (Kumya), No. 10 (Bhow Zanoo), and No. 11 (Chima Huree Bhugut), the Court does not consider the evidence sufficient to support a conviction; they are therefore acquitted, but forwarded to the Magistrate in order that he may take such measures to secure their future good conduct as he may deem necessary. (Regulation XIII. Section XLI. of 1827.)

* * * * * *

The Court now proceeds to consider the amount of punishment to be awarded against the eight prisoners convicted of this very heinous offence.

In the perpetration of the robbery, they seem to have all treated the poor old woman, whose death they caused, very brutally, by beating her with sticks to compel her to show them where the money was kept; and as the Court cannot find from the evidence that one ill-treated her more than another, the following sentence is passed:—

That you, prisoners No. 1 (Nowsoo wulud Dhakoo), No. 2 (Kanoo wulud Soma), No. 3 (Govinda Duma), No. 4 (Goma wulud Sukhojee), No. 6 (Shiwa wulud Newujee), No. 9 (Chima Dawujee), No. 12 (Kuma Nowsoo), and No. 13 (Chima Kumbhoo, Télum), be transported beyond seas for the term of your natural lives, to any place that the Right Honorable the Governor in Council may be pleased to direct. (Regulation XIV. of 1827, Section XXXVII. Clause 1st; and Section XXVI. Clause 4th of the same Regulation.)

This sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

The Court is of opinion, that the Police Officers who conducted this inquiry deserve great praise for the activity and judgment they have displayed in discovering the perpetrators of this atrocious offence; and, as a mark of the Court's approbation, recommends that the

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Superintendent of Police will be pleased to confer as many marks as he may deem necessary on the following persons :—

Jemadar Narojee Madhowrow.
Private Gunnoo bin Gopalla.
Private Aba bin Mulharee.

Tickets to be given to the above Officer and Policemen, and a letter written to the Superintendent, forwarding the above extract, with a view to the instructions of Government, as contained in Circular No. 1771 of 1853, being carried into effect.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge, in deference to certain observations made by this Court in the case of Luxumon Paya and others, refused to examine for the prosecution certain relations of the prisoners; but as the resolution referred to only exempted the wives of prisoners, there was no reason for not hearing Bajee, Police Patel of Barlee, or Kowjee, the brother-in-law of prisoner No. 2 (Kanoo).

The evidence of the Sonars, Babajee wulud Narain and Babajee wulud Kasee, is also essential to the prosecution, and they must be examined as approvers.

The case is to be returned to the Sessions Court, in order that these witnesses may be heard, and their evidence recorded.

Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—This Precept is returned duly executed, the Session Judge having herewith transmitted extract from his proceedings of the 15th instant, with reference to the extract of proceedings of the Court of Sudder Foujdaree Adawlut, dated 13th September 1854.

Resolution of the Sudder Foujdaree Adawlut.—The evidence recorded against the prisoners consists mainly of confessions made, in the first instance, before the

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Ghaut Police, and repeated before the Mamlutdar of Kolwan, but denied when the prisoners were under examination by the Assistant Magistrate. Before the Sessions Court the prisoners severally pleaded not guilty.

The identity of the gang, or any of their number, by the plundered persons, would seem under the circumstances impossible, and cannot be credited. The prisoners were all strangers to that part of the country, having come from the Ghauts; and the articles of property deposed to were without any distinctive mark upon them, while the sickle claimed by Kan Patel was not among the property enumerated as missing in his first statement.

Further inquiry, instituted by order of the Court, shows that Kanoo wulud Soma and Govinda Duma (prisoners Nos. 2 and 3) left their village to descend the Ghauts, and Nowsoo wulud Dhakoo and Goma wulud Sukhojee (prisoners Nos. 1 and 4) were in possession of certain ornaments, which they consigned to Sonars to melt, and otherwise disguise. No explanation was offered by the prisoners of these very suspicious circumstances; and the fresh evidence recorded against them, added to the fact of the confessions made to the District Police Officer being proved to have been voluntary, and the prisoners do not plead any coercion, is quite sufficient for their several convictions.

In respect to prisoners No. 6 (Shiwa wulud Newujee), No. 9 (Chima wulud Dawujee), No. 12 (Kuma Nowsoo), and No. 13 (Chima Kumbhoo), there being no evidence that can be relied upon except their confessions, the convictions are not good, and they are accordingly acquitted, and are to be discharged.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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[Case No. 1 of the Calendar of the Rutnagherry Sessions Court for 1854. Committed by Mr. G. SCOTT, First Assistant Magistrate, on the 25th September 1854. Tried by Mr. R. KEAYS, Session Judge, on the 14th, 15th, 16th, and 17th November 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners Aliba wulud Soodkojee Solkur, and thirteen others.]

Prisoners.—No. 1, Aliba wulud Soodkojee, Mussulman, aged 30. — Riot; and Breach of the Peace.

2, Akoobjee wulud Esakjee, Mussulman, aged 32.

3, Adamjee wulud Esaljee, Mussulman, aged 35.

4, Husunjee wulud Aliba Solkur, Mussulman, aged 45.

5, Ahmedba wulud Abdooljee, Mussulman, aged 40.

6, Mahmoodjee wulud Aljee, Mussulman, aged 27.

7, Aleeba wulud Husun Bhatkur, Mussulman, aged 38.

8, Abdooljee wulud Aljee, Mussulman, aged 36.

9, Hooseinjee wulud Esubjee, Mussulman, aged 27.

10, Seeleemjee wulud Aljee, Mussulman, aged 55.

11, Husunjee wulud Soodkojee, Mussulman, aged 40.

12, Aleeba wulud Dhurmojee, Mussulman, aged 40.

13, Adamjee wulud Mahomedjee, Mussulman, aged 30.

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Prisoners.—No. 14, Hamudjee wulud Adamjee, Mussulman, aged 33.
15, Isoobjee wulud Ahmedjee, Mussulman, aged 32.
16, Hameejee wulud Ismaljee, Mussulman, aged 30.
17, Mahomedjee wulud Akoobjee, Mussulman, aged 32.
18, Adamjee wulud Fukeerjee, Mussulman, aged 45.
19, Isakjee wulud Husun, Mussulman, aged 35.
20, Ibramjee wulud Mahomedjee, Mussulman, aged 30.
21, Akburjee wulud Abdooljee, Mussulman, aged 35.
22, Ibrahimjee wulud Mahomedjee, Mussulman, aged 60.
23, Akburjee Esoobjee, Mussulman, aged 37.
24, Esubjee wulud Adamjee, Mussulman, aged 40.

Charge.—Riot; and breach of the peace (Regulation VII. Section II. of 1833); in that they, the prisoners aforesaid, belonging respectively, Nos. 1 to 14 to the sect of upper Mussulman inhabitants, and Nos. 15 to 24 to the sect of lower Mussulman inhabitants, of the village of Sankrey Natey, aforementioned, with others unknown, being more than twelve in number, did, during the day of June 28th, 1854, (corresponding with Ashad Shood 3rd, Shuké 1776,) at the aforesaid village of Sankrey Natey, riotously assemble and gather together to disturb the peace, and being so there and then assembled together, armed with sticks and other offensive weapons, did commit a breach of the peace, by fighting,

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the said upper against the said lower sect, as also by assaulting and wounding the Police.

Finding and Sentence by the Session Judge.—The prisoners are charged, under the provisions of Regulation VII. of 1833, with riot, and breach of the peace; in having, at the time and place mentioned in the indictment, riotously assembled together armed with sticks, and other offensive weapons, and committed a breach of the peace, by fighting together, and also by assaulting and wounding the Police. The whole of the prisoners plead not guilty.

It appears that in this village of Sankrey Natey there are two parties of Mussulmans, one residing in the upper, and the other in the lower division of the village. Their tenets in some degree differ; which has, I suppose, led the Assistant Magistrate to designate them throughout his proceedings as the upper and lower *sect.* It seems that these two parties are habitually quarrelling on occasions when they meet together in religious assemblies, and to prevent a disturbance on the occasion of the last 'Eed,' a small party of Police were sent to the village by the Police Jemedar Sumseir.

One of the principal differences in their tenets is that the inhabitants of the upper division are opposed to the 'Khootba' being read in their mosque. It is necessary to mention this here, because the reading the Khootba in the 'musjid' was the real cause of the disturbance which forms the subject of this inquiry.

Now it is clearly proved in evidence, that at noon prayers on the occasion of the last Eed, a serious disturbance occurred in the musjid of the village of Sankrey, amongst the two parties of Mussulmans who reside in the upper and lower divisions, which arose in consequence of two Kazees of Jeetapoor having come there to read the Khootba, and that during the fight, in which

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many of the parties concerned were armed with sticks, the Naique of Police, whose endeavours to check the disturbance were met with resistance, and a number of the delinquents, were slightly hurt. This is an offence which, in the opinion of this Court, is clearly riot; and the only extenuating point to be observed in it is that the Naique of Police, Mahomed Sallay, who was sent to the village to prevent a breach of the peace, seems to have acted as a partizan of the lower division, and to have been partly instrumental in causing the emeute.

As the Court finds that the Superintendent of Police has taken proper notice of the misconduct of his subordinate on this occasion, it is not necessary to notice it further.

The Court now proceeds to notice the evidence as it bears upon the prisoners at the bar.

From the evidence of these witnesses, viz. Nos. 6, 9, and 10, it is proved that the whole of the prisoners were present at the place when the disturbance took place, and, with the exception of prisoners Nos. 6, 11, 12, 23, and 24, (Mahmoodjee, Husunjee, Aleeba, Akburjee, and Esubjee,) there is an abundance of additional testimony that they all were so. Against some of the prisoners, indeed, the different parts they took in the affray are clearly proved: for instance the prisoners Nos. 3 and 5 (Adamjee and Ahmedba) appear to have been the originators of the disturbance, by going up to and abusing the Kazees for coming; No. 2 (Akoobjee) and No. 9 (Hooseinjee) assaulted the Police Naique; and Nos. 4 and 7 (Husunjee and Aleeba) pulled him out of the musjid. The whole of these prisoners are of the upper division of the village; and it is clear to the Court that the whole of this party were most to blame. They alone were armed with sticks, as shown by the evidence, and corroborated by the result of the contest, and, as stated above, began the assault.

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There are some discrepancies in the evidence, but the Court does not consider that they are sufficiently important to cast discredit on the statements of the witnesses; for in a tumultuous assembly of this sort, when the confusion must have been so great, some of the witnesses may be reasonably expected to have remarked what might have escaped the observation of others. Under these circumstances, the Session Judge is of opinion that it is proved that the whole of the prisoners were present and engaged in the fight, which resulted in about twenty-three of the lower division and six of the upper division, together with the Police Naique, being slightly wounded. They are accordingly convicted of riot, and breach of the peace; in that they, the prisoners aforementioned, belonging respectively Nos. 1 to 14 to the sect of upper Mussulman inhabitants, and Nos. 15 to 24 to the sect of lower Mussulman inhabitants, of the village of Sankrey Natey, aforementioned, with others unknown, being more than twelve in number, did during the day of June 28th, 1854, (corresponding with Ashad Shood 3rd, Shuké 1776,) at the aforesaid village of Sankrey Natey, riotously assemble and gather together to disturb the peace, and, being so there and then assembled together, armed with sticks, and other offensive weapons, did commit a breach of the peace, by fighting, the said upper against the said lower sect, as also by assaulting and wounding the Police.

Having duly considered the nature of the offence proved against the prisoners, and the circumstance noticed above, as casting a greater degree of criminality on the prisoners of the upper division, the Court passes the following sentence:—

That you, prisoners No. 1 (Aliba wulud Soodkojee), No. 2 (Akoobjee wulud Esakjee), No. 3 (Adamjee wulud Esaljee), No. 4 (Husunjee wulud Aliba Solkur),

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No. 5 (Ahmedba wulud Abdooljee), No. 6 (Mahmoodjee wulud Aljee), No. 7 (Aleeba wulud Husun Bhatkur), No. 8 (Abdooljee wulud Aljee), No. 9 (Hoosenjee wulud Esubjee), No. 10 (Seeleemjee wulud Aljee), No. 11 (Husunjee wulud Soodkojee), No. 12 (Aleeba wulud Dhurmojee), No. 13 (Adamjee wulud Mahomedjee), and No. 14 (Humudjee wulud Adamjee), of the upper division, do suffer imprisonment, with hard labour, for a period of six (6) months, and pay a fine of one hundred (100) rupees each, commutable to other three (3) months' ordinary imprisonment.

That you, prisoners No. 15 (Isoobjee wulud Ahmedjee), No. 16 (Hameejee wulud Ismaljee), No. 17 (Mahomedjee wulud Akoobjee), No. 18 (Adamjee wulud Fukeerjee), No. 19 (Isakjee wulud Husun), No. 20 (Ibramjee wulud Mahomedjee), No. 21 (Akburjee wulud Abdooljee), No. 22 (Ibrahimjee wulud Mahomedjee), No. 23 (Akburjee Esoobjee), and No. 24 (Esubjee wulud Adamjee), of the lower division, do each and every one of you pay a fine of one hundred (100) rupees, commutable to three (3) months' ordinary imprisonment. (Regulation VII. Section III. of 1833).

Resolution of the Sudder Foujdaree Adawlut.—It is proved in this case, that the prisoners assembled for the purpose of performing religious rites; that an objection exists among some of the sect, denominated in these proceedings "upper," to the Khootba being read in the mosque; and it was further in evidence that the book had not been attempted to be used for several years.

There can be no doubt that a disturbance took place, and though that part of the sect who belong to the upper began it, in so far that they challenged the right of the lower to introduce any innovation upon old forms and practices, the latter most assuredly ought not to have

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commenced the reading, unless quite certain of the concurrence of all the meeting.

The congregation was a large one; but people are entitled to assemble, in a peaceable manner, for any object not having a criminal tendency, and such meeting, if peaceably conducted, can neither be styled unlawful nor riotous. The disturbance that afterwards ensued being confined to the mosque, and not resulting in any tumult *out of it*, was, considering the excitement and ferment that prevailed, not after all so very reprehensible; and the Court are doubtful whether a riot, in the legal sense of the term, was committed, inasmuch as by the preamble of the Regulation under which the charge was framed, "the assembly must be formed for riotous or rebellious purposes"; and the Interpretation of 31st July 1837, on Regulation VII. of 1833, indicates that a specific charge of assault ought to have been the charge in the present case.

In respect to the assault on the Police, the latter are described as having acted as partizans in the affray, and been punished for their misconduct in the matter.

The Court annul the conviction and sentence, and the fine, if received, is to be returned, and the prisoners discharged.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SHOLAPORE.

Appropriation of Property by Breach of Trust; and Receiving Property, knowing it to be fraudulently withheld from its Owner.

[Case No. 99 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. J. A. G. DUFF, Third Assistant Magistrate of Sholapore, on the 16th October 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 19th October 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Prisoners.—No. 1, Sukoo kom Krishna, Malin, aged 35.

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Prisoners.—No. 2, Gopaljee bin Balajee, Mahratta, aged 40.
3, Babajee wulud Apajee, Mahratta, aged 26.
4, Rowjee Mahadajee, Brahmin, aged 55.
5, Bapoojee Rowjee, Brahmin, aged 30.
6, Taoo wulud Ramjee, Mahratta, aged 50.
7, Babajee wulud Kéloo, Dhungur, aged 45.

Charge.—Against No. 1 (Sukoo kom Krishna), appropriation of property by breach of trust (Regulation XIV. of 1827, Section XL.); in having, on Saturday the 2nd day of September 1854, (corresponding with Sunwar, Bhadrupud Shood 10th, Shuké 1776,) at Anjungaon, in the Mareh Talooka of the Sholapore Zillah, divided amongst the other prisoners gold and silver ornaments, and cash, of the estimated value of Rs. 150-11-0, the property of Bheema kom Bawajee, which had been entrusted to her charge, and thereby fraudulently removed and kept the same from its owner.

Against Nos. 2 to 7 (Gopaljee bin Balajee, Babajee wulud Apajee, Rowjee Mahadajee, Bapoo Rowjee, Taoo wulud Ramjee, and Babajee wulud Kéloo), receiving property, knowing it to be fraudulently withheld from its owner (Regulation XIV. of 1827, Section XLI. Clause 1st); in having, at the above time and place, received from prisoner No. 1 (Sukoo kom Krishna) portions of said property, knowing, or having evident ground for suspecting it to belong to the said Bheema, and to be fraudulently withheld from her.

Prisoner No. 1 (Sukoo kom Krishna) pleads not guilty.

Prisoners Nos. 2 to 7 (Gopaljee bin Balajee, Babajee

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wulud Apajee, Rowjee Mahadajee, Bapoo Rowjee, Taoo wulud Ramjee, and Babajee wulud Kéloo) plead guilty.

Finding and Sentence by the Session Judge.—The prisoners are charged, No. 1 (Sukoo kom Krishna) with appropriation of property by breach of trust, and Nos. 2 to 7 (Gopaljee bin Balajee, Babajee wulud Apajee, Rowjee Mahadajee, Bapoo Rowjee, Taoo wulud Ramjee, and Babajee wulud Kéloo) with receiving property, knowing it to be fraudulently withheld from its owner; and plead, No. 1 (Sukoo kom Krishna) not guilty, and Nos. 2 to 7 (Gopaljee bin Balajee, Babajee wulud Apajee, Rowjee Mahadajee, Bapoo Rowjee, Taoo wulud Ramjee, and Babajee wulud Kéloo) guilty.

Prisoner No. 1 (Sukoo kom Krishna) is convicted on the evidence of the witnesses Bheema and Yessoo (Nos. 2 and 3), and on her own confession, freely and voluntarily admitted before the Court, and recorded for the prosecution No, 4, of appropriation of property by breach of trust; in having, on Saturday the 2nd day of September 1854, corresponding with Sunwar Bhadrupud Shood 10th, Shuké 1776,) at Anjungaon, in the Mareh Talooka of the Sholapore Zillah, divided amongst the other prisoners gold and silver ornaments, and cash, of the estimated value of Rs. 150-11-0, the property of Bheema kom Bawajee, which had been entrusted to her charge, and thereby fraudulently removed and kept the same from its owner.

Prisoners Nos. 2 to 7 (Gopaljee bin Balajee, Babajee wulud Apajee, Rowjee Mahadajee, Bapoo Rowjee, Taoo wulud Ramjee, and Babajee wulud Kéloo) are convicted on their own confessions, confirmed after hearing the evidence in the case read over to them, of receiving property, knowing it to be fraudulently withheld from its owner; in having, at the above time and place, received from prisoner No. 1 (Sukoo kom Krishna) portions of the said property, knowing, or having evident

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ground for suspecting it to belong to the said Bheema, and to be fraudulently withheld from her.

And after maturely considering the nature of the offences committed, the fact of prisoner No. 2 (Gopaljee bin Balajee) being Police Patel, No. 3 (Babajee wulud Apajee) Moolkee Patel, and Nos. 4 and 5 (Rowjee Mahadajee and Bapoo Rowjee) Koolkurnees of the village, and the punishment provided for the same by Section XL. Clause 1st, and Section XLI. Regulation XIV. of 1827, the following sentence is passed :—

That you, Sukoo kom Krishna, be imprisoned and kept to hard labour for one (1) year. That you, Gopaljee bin Balajee, be imprisoned and kept to hard labour for one (1) year, and pay a fine of five hundred (500) rupees, or be further imprisoned and kept to hard labour for one (1) year. That you, Babajee wulud Apajee, Rowjee Mahadajee, and Bapoo Rowjee, be each of you imprisoned and kept to hard labour for one (1) year. And that you, Taoo wulud Ramjee, and Babajee wulud Kéloo, be each of you imprisoned and kept to hard labour for six (6) months.

Resolution of the Sudder Foujdaree Adawlut.—It would appear that Sukoo intended, under cover of the robbery, to appropriate the whole of the property, but the Police claiming a share, it was divided.

The Court see no cause for interference, and the petitions are rejected.

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POONA.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 69 of the Calendar of the Poona Sessions Court for 1854. Committed by Mr. J. S. INVERARITY, First Assistant Magistrate, on the 25th November 1854. Tried by Mr. P. W. LEGEYT, Session Judge, assisted by Assessors, on the 5th and 11th December 1854. Proceedings submitted for the confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

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POONA.

Murder.

Prisoner.—Mooktee kom Dhondee.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, on the 20th November 1854, (corresponding to Kartik Wud 30th, Shuké 1776,) in her own house, in the village of Narayengaum, Talooka Pabul, Zillah Poona, wilfully murdered one Réoo kom Marootee, aged eight years, by striking her on the head and throat with a sword, razor, or some sharp instrument, from the effects of which wounds Réoo then and there died.

The prisoner pleads not guilty.

Opinion of the Assessors.—The charge against the prisoner in this case is the murder of a child named Réoo. From the evidence recorded in this case, it is proved that she did commit the murder. It is stated in the 'punchnama' that the murder took place at the prisoner's house; that the 'Punch' were present at the search of prisoner's house; that they saw the weapons (swords, &c.) by means of which the murder was committed, and some blood marks in the prisoner's house; that drisoner had tried to obliterate those marks, by scrubbing the floor, and cowdunging it; that there were also blood marks in a cupboard in the wall, in which the corpse was secreted; that prisoner had in their presence given up the ornaments which were on Réoo's person; that there were drops of blood from the place where the body was lying to the prisoner's house; that the Punch stated in their Report that the weapon by which the murder was committed was cleaned with brick, in order to remove the blood marks from it. Prisoner has herself admitted in her defence to the Court that Réoo did come to her house. The statement of the prisoner has also been proved by the attesting witnesses to it. Rajba Patel states that the prisoner had admitted having committed the murder before the Mahalkuree, and from the Fouj-

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dar's deposition it would appear that prisoner must have committed the murder.

Under these circumstances, we are of opinion that the prisoner Mooktee kom Dhondee murdered the child Réoo.

Finding and Sentence by the Session Judye.—The evidence in this case fully supports the charge, and the opinion of the Assessors. Vitoo, the father of the deceased, last saw his daughter alive about mid-day on the 20th of November 1854, on his return in the evening. She had not been seen since; and after a lengthened search, he found her body with four wounds on the throat, and one on the temple, in a drain at some little distance from his house. His suspicion lighted on the prisoner, who was a next door neighbour, and in whose house Réoo was constantly going to play. He had her apprehended, and on searching her house, suspicious marks of blood were found in it, and traces of blood spots were found from the house to the place where the body was found. The Police Patel took the prisoner into custody, and the District Authorities were apprized of the occurrence, and the Mahalkuree, and with him Mr. Spiers the Deputy Magistrate, and subsequently Mr. Inverarity the First Assistant Magistrate, came to the place. The house was minutely examined, and the Patel and Mr. Spiers both depose to the existence of the marks described by Vitoo the father; and subsequently the prisoner made a full confession of her guilty participation in the crime, alleging that her paramour Pootajee was her accomplice, or rather that she was his. She gave up the sword, and razor, and mallet, with which she said the death wounds were inflicted, and the wounds were described by the Inquest and other witnesses to be such as could be inflicted by these weapons. She also produced certain ornaments—a 'nuth' and anklet, which are identified by the father to have belonged to his daughter. Pieces of bangle were also found in the house,

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which the father swears resemble those worn by the deceased. The prisoner denies the truth of the admission, and says the Police Authorities told her to make it, and take the name of Pootajee. This is contradicted by the persons in whose presence the confession was made, and which was fully admitted by her before the Assistant Magistrate, Mr. Inverarity. Pootajee was apprehended, but he proved an *alibi*, and was discharged; and Mr. Spiers gives his opinion that the prisoner was the sole perpetrator of the murder. There is certainly nothing to show she was not, and the finding of the body, the wounds on it, the presence of the sword and mallet, the fresh cowdunging of the room, are all circumstances mentioned by her which have received full corroboration from the evidences of Vitoo, Razoo Patel, and Mr. Spiers. But the prisoner's own defence before the Court, as observed by the Assessors, precludes all doubt as to her guilt. She there fully admits that Réoo was in her house, and assigns a fall on a copper 'handa,' in which was a 'pulee,' or instrument for taking anything out of a handa, like a spoon, as the means of the five wounds on the person of deceased. That such wounds could have been so inflicted is simply impossible. This confirmation of the prisoner's guilt is therefore incontrovertible. The prisoner is therefore found guilty of the murder of Réoo, as set forth in the charge at the commencement of these proceedings.

The Court passes the following sentence:—That you, prisoner Mooktee kom Dhondee, be transported beyond seas for the term of your natural life. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut. (Regulation XIV. of 1827, Section XXVI. Clause 1st.)

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

The Court are of opinion that a capital sentence should have been passed on the prisoner.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

POONA.

[Case No. 63 of the Calendar of the Poona Sessions Court for 1854. Committed by the Honorable G. A. HOBART, Second Assistant Magistrate, on the 2nd November 1854.* Tried by Mr. P. W. LEGEYT, Session Judge, assisted by Assessors, on the 4th December 1854. Proceedings submitted for the confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoner.—Kooshee kom Dhondee.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, on or about the night

* *Commitment by the Second Assistant Magistrate.*—The prisoners are each charged with murder. Prisoner No. 1 (Kooshee) pleads guilty; prisoner No. 2 (Hybutee) pleads not guilty.

Before considering what proof there is that the deceased Dhondee met his death by murder, it is necessary to state that there is not the slightest shadow of evidence to inculpate prisoner Hybutee in the murder, supposing it to have been committed. The other prisoner stated that she and Hybutee together murdered the deceased, and on that assertion he was charged with the murder. The prisoner Hybutee is therefore discharged.

With the other prisoner, the case is not the same. The question is, whether there is evidence sufficiently corroborative of her confession to prove against her the crime of murder.

It appears from the evidence that she from the first confessed that she and Hybutee murdered her husband, the deceased Dhondee, in the manner stated in the charge. This confession she seems to have made freely, in the first instance, to the Joint Police Amuldar. She subsequently confirmed it on different dates before the Magistrate, and the Police Amuldar, and in answer to the charge on this occasion she has pleaded guilty. It was only at the last moment, when called on to defend herself, that she denied with tears having committed the murder, adding that deceased died from the bite of a snake. Now it is evident from the Inquest Report that death was not occasioned by a venomous bite; at least the Members of the Inquest have alleged that the corpse showed no marks of discoloration, and from this they concluded that death was not caused in such manner. The Civil Surgeon appears to have been of the same opinion; and therefore this defence, merely urged at the last moment, is most unsatisfactory. What, then, is the proof that deceased was strangled? Taking out of the question

of the 15th day of October 1854, (corresponding with Ashwin Wud 9th, Shuké 1776,) in or near the dry bed of a watercourse or nulla, within the limits of the village of Lonee, Talooka Havailee, Zillah Poona, strangled with a turban, and thereby wilfully deprived of life, Dhondee Pisal, deceased.

prisoner Kooshee's confession, the remaining proof is presumptive merely, and no stronger, if so strong, as the presumption that he died a natural death.

Early on the morning of October 16th, Hybutee went to the Police Patel of Lonee, and told him deceased had fallen off a bridge in the vicinity, and was killed. The Police Patel went there immediately, and, from the position of the body, he at once suspected that deceased could not have died by a fall from the bridge. The Joint Police Amuldar was sent for, and came the same evening. An Inquest was called and held on the body, in the place where it was first shown to the Police Patel, from which it had not been removed. Their opinion is, that the body having no wounds or bruises, which they suppose would have been visible had a person fallen from the bridge on the stony ground beneath, the body, also, lying so close to the bridge wall itself (a little under it), and the height of the bridge at the spot where the body lay being not so great as that any one falling from it would be killed by the fall, the deceased did not meet his death by a fall from the bridge. This opinion, or rather the evidence on which it was based, and the opinion of the Civil Surgeon, who, on its being suggested to him that there were suspicions that the deceased had been strangled, has given it as his opinion that death might have resulted from strangling, is the sum total of the independent evidence to prove that deceased met his death from strangling.

On the other hand, the Inquest found that there were no marks of violence on the corpse; neither were the eyes protruding, nor the tongue swollen. It had the appearance of a dead person who had died naturally; there was a slight swelling only about the throat. The Inquest was held in the evening of the day on the morning of which Hybutee had come to the Police Patel, saying that during the night deceased had fallen off the bridge and been killed; so that the body was in a state from which they were able to observe the nature of any marks on it. The body was next taken to the Civil Hospital at Poona, and the Civil Surgeon, examining it, stated it as his first impression that death had been caused by apoplexy. Now, though the prisoner Hybutee's narration must not be held to be evidence in favour of

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The prisoner pleads not guilty.

Opinion of the Assessors.—The charge against the prisoner in this case is of having murdered her husband, by strangling him. On a perusal of the papers recorded in the inquiry before the Sessions Court, viz. eight depositions on the part of the prosecution, the statement of

the prisoner. Kooshee any more than her's is evidence against him, yet there is no reason against his explanation being adopted if such explanation is consistent with probability.

He said that deceased had gone out of the shed in which the three (prisoners and deceased) slept that night, to turn aside a cart which was coming towards the bridge, as the bridge was impassable. That when he (Hybutee) next went out of the shed, he saw deceased lying on the ground near the bridge. The body was lying upside down, and he put it in a proper position ('neet'), and went to call the Police Patel. It is to be noticed that Hybutee does not pretend to have seen the deceased fall. He found him on the ground, and knowing he had been to the bridge, thought he had fallen off it. But it is quite possible that deceased had descended again into the 'nulla,' and was walking close to the bridge, when, being struck with apoplexy, he may have fallen and expired where Hybutee found him. Hybutee, too, said that he changed the position of the body; so that what has been laid so much stress on by the witnesses, that from the position of the body the deceased could not have fallen from the bridge, is not strong evidence for the prosecution.

But the prisoner Kooshee having so often, at different times, before competent authority, voluntarily admitted her guilt, the Assistant Magistrate does not feel himself at liberty, in a case of such a serious nature, to order her release; she is accordingly committed for trial before the Sessions Court on the charge of murder instanced in the indictment, under Regulation XIV. of 1827, Section XXVI. Clause 1st. Being asked if she has any evidence to adduce in defence at the Sessions, she states she has none.

The Joint Police Amuldar has not been hitherto examined, but the Assistant Magistrate begs to suggest to the Sessions Court the advisability of this measure, to discover what was the nature of the examination to which prisoner Kooshee was subjected, which resulted in her confession.

The witnesses who have been examined during this investigation are directed to attend the Sessions. A turban, with which the deceased is supposed to have been strangled, is also forwarded.

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the prisoner before the Police Amuldar and the Joint Police Officer, and the defence of the prisoner, we find, that with the exception of prisoner's confession, there is no one among the witnesses who deposes to being an eye-witness of the murder. The witnesses state that there is no mark of a noose on the deceased's neck, or any stone bruises on his body; they also state that there was a turban partly unfolded lying in the hut in which deceased, Hybutee, and prisoner slept. They further state, that with the exception of these three individuals, there was no one there that night; that if the deceased had died from a fall, there would necessarily have been marks and bruises on his body; and lastly, that he could not have died from sickness, as he was not unwell.

The inference to be drawn from this is, that death might have been caused by strangulation. The Doctor also mentions in his deposition, that death might take place from strangulation without any protrusion of the tongue and eyes. It would, therefore, be probable, that as there were only three persons in the hut, two of them, by gradual suffocation, succeeded in putting an end to deceased's life. But it becomes absolutely necessary to consider which of the two persons this was. Not one of the witnesses alludes to it. Hybutee denies it; the prisoner admits it. Yet it cannot be concluded that it is proved that she perpetrated the deed on such confession, because prisoner states in it that she and Hybutee plotted the death of the deceased, and that Hybutee strangled him. She does not admit that she did it herself, or that she put the noose. Looking from this, therefore, it does not appear that prisoner committed the murder, or assisted in it. From the fact of the prisoner admitting that she and Hybutee plotted to murder deceased, it is apparent that she assisted in it; but this admission depends only upon the statement of the prisoner, unsupported by any other evidence. This is our view of the case.

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Finding and Sentence by the Session Judge.—The facts in this case have been very clearly set out in the written opinion of the Punchayet. There is no doubt but that on the night of the 15th October three persons, the deceased Dhondee, the prisoner Kooshee his wife, and Hybutee Hillal, occupied a small hut near a bridge then in the course of construction on the new road, about a mile from the village of Lonee. In the morning, Hybutee reported to the Police Patel Ramjee (witness No. 1) that Dhondee's corpse was lying beneath the buttress, in the bed of the river. Ramjee and others proceeded to the spot, and found it as described. Notice was given to the Police Authorities, and the usual Inquest was held. Hybutee and Kooshee were both examined, and Kooshee made a full confession that her husband had been strangled by her consent, and in her presence, by Hybutee, and that they had afterwards taken his body to the bed of the river, and placed it in the spot in which it then was. The Inquest Report states, and which is corroborated by other witnesses, that the corpse exhibited no signs of any external violence. It was brought into Poona, and minutely examined by the Civil Surgeon, who states that it exhibited the appearances of apoplexy, but that the same appearances would attend strangulation, and that though usual, the protrusion of the eyes and tongue would not necessarily be present; that the examination proved that death was not caused by poison or any violent blows. This, then, reduces speculation as to the mode of death to two causes—apoplexy or strangulation; and the evidence recorded shows, in the opinion of the Court, that it was the latter, and not the former, that was the real cause of death. This evidence chiefly rests on the confession, before the Magisterial Authorities, of the prisoner Kooshee. She has distinctly stated that an adulterous connexion existed between herself and Hybutee; that on that very night an act of adultery was committed, while her husband the deceased

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was in the hut asleep, and that thereafter his death was resolved on and carried into execution, by strangling him with the ends of a turban. She has denied the truth of this confession, but has assigned no adequate reason for telling such a falsehood, or admitting it, even supposing it was written down not at her dictation. It is shown that she confessed, both at the spot before the Joint Police Officer, and many others, and that she pointed out the turban lying on the ground as the means of strangulation. It is also proved that the turban was in such a state as it would likely be after being used for such a purpose—half unbound, that is a considerable portion of one end loose. It was exhibited in Court, and the end was narrow, and folded of itself almost in the shape of a rope; and the Civil Surgeon was of opinion that strangulation might have been effected with it, without leaving a mark on the surface of the skin. The evidence, then, corroborates two material points of Kooshee's retracted confession—the finding of the corpse in the spot indicated by her, and the presence in the hut of the turban with which she says the murder was committed. She is said to have exhibited no signs of grief, which a wife would be supposed to feel at the sudden death of her husband, supposing his death to have been a natural one, and she is proved to have confirmed her own confession by pointing out the turban in the hut as the immediate instrument of the murder. Her own brother Babajee (witness No. 7) deposes to having witnessed some irritating conduct on her part towards the deceased, two or three days before Dhondee's death, and Jubaee (witness No. 8), a female relative, deposes to her being a person of restless habits, who would never remain quietly with her husband. These corroborative circumstances, in the opinion of the Court, afford sufficient support to the retracted confession of the prisoner as to make it good evidence against her.

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The surmise that apoplexy caused Dhondee's death is supported by the absence of all appearance of violence on the body, and of the marks which usually accompany strangulation. These, however, have been pronounced by a competent authority not to be necessary accompaniments of such a process. Had there been no confession on the part of Kooshee, these circumstances would have been creative of doubt, which might have justly been carried to the benefit of the prisoner; but the confession, corroborated as it has been, forbids such doubts being entertained, and the Court is satisfied that the evidence, both legally and morally, is sufficient to convict the prisoner of the charge.

The doubt thrown out by the Punchayet, of the actual active part being taken by the prisoner in the murder, makes no difference in her guilt. She was present, and a consenting party to the deed, and is therefore a principal in the eye of the law.

The proof of previous ill-blood between the parties is, perhaps, hardly sufficient to raise a presumption that murder would ensue; but to this must be added the admitted adultery. It is very likely that the deceased was a witness to his own dishonour in the hut, and that his remonstrances may have been the immediate exciting cause of the violent deed. The circumstances taken together prove, in the Court's opinion, that there were sufficient exciting causes present.

The accomplice Hybutee was discharged by the Magistrate for want of evidence of his guilt. There can be no moral doubt, and his statements, as recorded by the Magistrate, tend to strengthen the impressions which the evidence in this trial has produced, as to the real cause of Dhondee's death.

The Session Judge is of opinion that some precautionary measures are called for in respect to Hybutee, and the Magistrate will be so informed.

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A verdict of guilty of the murder of Dhondee bin Kallojee is recorded against the prisoner Kooshee.

The sentence of the Court is that you, Kooshee kom Dhondee, be transported beyond seas for the term of your natural life, which sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut. (Regulation XIV. of 1827, Section XXVI. Clause 1st.)

Resolution of the Sudder Foujdaree Adawlut.—The prisoner was convicted of the wilful murder of her husband, Dhondee, on her own confession, retracted before the Sessions Court, of having been present when her paramour, Hybutee, put him to death by strangulation.

There was no further evidence against her, and the appearance of the body not indicating any external violence, the Inquest returned an open verdict; but at the same time recorded their suspicion of foul play having been practised towards deceased.

A *post-mortem* examination was duly made by the Civil Surgeon, whose impression was that deceased had died from apoplexy; judging, as the witness deposed, from the brain, and the conformation of the head and neck, denoting an apoplectic tendency. But Dr. Keith added that strangulation might have been caused in the manner related in the confession, or by pressure of the hand, without any external injury being visible at all; though, had he dissected the neck, the Court believe that this might have been ascertained with certainty.

The Session Judge considered that there was legal and ample corroboration of the confession in the medical evidence, and from the body having been found on the spot indicated by the prisoner in the confession. But, as it appears to the Court, the medical testimony did not determine the fact that strangulation had been resorted to, while the discovery of the body was made before the prisoner confessed (and not in consequence of what she

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admitted); and the same remark holds good in respect to the turban taken from the shed on search by the Police.

The information of the event was given to the Authorities by Hybutee himself, who, with Kooshee and deceased, occupied a shed near the bridge, at the foot of which the body was found. Its partial removal by Hybutee would explain in some degree, as the Assistant Magistrate remarked, the position it occupied in respect to the bridge; and so far, it tended to remove the suspicion that might otherwise have arisen on that account.

Such being the facts, and the cause of death being uncertain, the Court are of opinion that the conviction cannot be sustained, and the prisoner is accordingly acquitted, and is to be discharged.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

BELGAUM.

[Case No. 128 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Rao Bahadoor RAGHOBA JUNARDHUN, Deputy Magistrate of Belgaum, on the 13th October 1854. Tried by Mr. A. W. JONES, Session Judge, on the 16th, 17th, 18th, and 21st November 1854. Proceedings submitted by the Session Judge, for the confirmation of the Sudder Foujdaree Adawlut.]

Murder, accompanied by Robbery with Force, by Night.

Prisoners.—No. 1, Muria bin Bheemuna, Jain, aged 40.

2, Topajee bin Aba, Mahratta, aged 25.

Charge.—Murder, attended with robbery (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st; and Section XXXVII. Clause 3rd); in having, on the evening of Saturday the 30th September 1854, (corresponding with Ashwin Shood 9th, Shuké 1776,) at about 7 o'clock, wilfully and maliciously deprived of life a boy named Pursia, of the age of seven years, in the Marootee temple in Belgaum, in the Padshapoor Talooka, in the

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Belgaum Division of the Dharwar Zillah, by twisting and squeezing his neck, and inflicting other injuries, from the effects of which he then and there died; and with having at the same time and place forcibly taken from the person of the said Pursia ornaments to the value of Rs. 11.

Finding and Sentence by the Session Judge.— In this case the prisoners are charged with murder, attended with robbery, and plead not guilty.

It appears that on the evening of the 30th September last, one of the Poojarees of the temple of Marootee in Belgaum was attending the procession of the idol round the court-yard of the temple, with his child, the deceased Pursia, a boy of about seven years old; and that after some part of the ceremony had been gone through, the child disappeared. There was a great crowd assembled, and the Poojaree therefore gave up the torch he was holding, and began to look for him. Not finding him either in the crowd or temple, he returned home, but as he could not find him there, he went back, and went up to the first story of the temple, attended by the two prisoners, who are his neighbours. He says he there found a handkerchief belonging to his child, with blood on it, but this handkerchief has not been produced, as he could not recollect to whom he gave it; and he says, also, that the two prisoners went up to the second story, and having called out to him that his child was not there, went away; but that he, continuing his search, found the body of his child lying on some stairs leading down from the first story of the temple. It appears that the door at the top of these stairs was closed, but that there was another way of getting on to them from a terrace, with which there was a side communication.

The child was dead, and his ornaments gone, so that the complainant saw at once he had been murdered; and therefore, taking the body up, he told the Police Patel what had happened, and carried it home.

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On his return, he was questioned by the Foujdar, and it appears that what he then said was the cause of the prisoner Muria having been sent for; and by the evidence of the sepoy who went for him (witness No. 10), of the Police Patel (witness No. 7), and the Police Jemadar (witness No. 8), it is shown that immediately on his appearance it was perceived that there were some small spots of blood on his dhotur, and the cloth he wore round his head.

He was therefore at once arrested, and was being taken to the Chowree by the Police Patel and Foujdar, when he attempted to escape, and ran off, and either fell or jumped into a well. From this he was, however, soon taken out, and then he admitted he was the murderer, and that he had the ornaments he had taken from the child at home, and would give them up.

He was therefore taken off to his house, and in the back yard of it, he, in the presence of the Police Patel and Police Jemadar, and three other witnesses (Nos. 12, 13, and 14) called in expressly, scratched up the earth under a particular tree, and showed a piece of dark coloured rag, which witness No. 12 took out and opened, and in it were found the ornaments taken from the murdered child. He was then taken to the Chowree, and his confession was there taken down in the presence of the Police Superintendent, Mr. Forjett, and the Foujdar, &c.

Prisoner No. 2 (Topajee) was, it appears, arrested on account of what had been said by prisoner No. 1 (Muria).

It is shown by witness No. 11, as well as by the complainant, that both the prisoners were at first among the crowd assembled at the temple.

The Inquest Report, which has been proved before the Court, shows that the child's death was caused by strangling, either by the hands, or in some other

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way; and that the earrings and bracelets were taken off violently.

The ornaments before the Court are identified as those which belonged to his child by the complainant, and by witness No. 21.

It is shown by witnesses Nos. 7, 8, 12, 13, and 11, that these ornaments were given up by the prisoner Muria, who showed where they were hidden in his own back yard.

It is shown by the evidence of witness No. 6, a Hospital Assistant, that there were spots of blood on the roomal and dhotur before the Court, which are shown by witnesses Nos. 7 and 8 to have belonged to the prisoner Muria.

And finally, it is shown by the evidence of witnesses Nos. 15 and 16 that he made a full confession before the Police Superintendent and the Foujdar, late on the night of the 30th September, when the murder had been committed.

It seems, from the Deputy Magistrate's proceedings, that this confession was admitted by the prisoner before him; but this could not be proved, as the admission was not attested by any witnesses. Nevertheless, the Session Judge thinks the confession is sufficiently corroborated by the giving up of the ornaments belonging to the child, and therefore convicts the prisoner Muria of murder, attended with robbery.

Against the prisoner Topajee there is no evidence beyond his implication by the prisoner Muria, and he must therefore be acquitted.

The prisoner Muria is therefore convicted of murder, attended with robbery; in having, on the evening of Saturday the 30th September 1854, (corresponding with Ashwin Shood 9th, Shuké 1776,) at about 7 o'clock, wilfully and maliciously deprived of life a boy named Pursia, of the age of seven years, in the Marotee temple

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in Belgaum, in the Padshapoor Talooka, in the Belgaum Division of the Dharwar Zillah, by twisting and squeezing his neck, and inflicting other injuries, from the effects of which he then and there died; and with having at the same time and place forcibly taken from the person of the said Pursia ornaments to the value of Rs. 11.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, and Section XXXVII. Clause 3rd, of the above quoted Regulation, the following sentence is passed:—

That you, Muria, be taken to the common place of execution in Dharwar, and there be hanged by the neck till you are dead. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

The Session Judge is to be told, that the Court cannot perceive what necessity there was for adjourning the trial over three days, for the mere purpose of writing out the finding; for further consideration in so plain a case could not have been required, when the Session Judge was quite satisfied with a confession, so promptly given, and so fully corroborated by circumstances, without calling for the evidence of its confirmation before the Deputy Magistrate.

This very great fault in all trials conducted by Mr. Jones has frequently attracted the notice of the Court; and it may be as well to bring to his notice, that the Honorable the Court of Directors, on reviewing the proceedings of a late Acting Judge, particularly remarked, as deserving of censure, that a trial, in which the evidence extended to no great length, was protracted through four days, or one less than this trial occupied.

The Court therefore trust they may not have occasion to notice a like departure from procedure in future cases.

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The Deputy Magistrate is to be told, that he committed for trial Topajee (prisoner No. 2) without having arraigned him; without recording his plea; and upon no evidence whatever. And the Deputy Magistrate's neglect to send the evidence of Muria's confession before himself should be pointed out.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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[Case No. 92 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. C. SHAW, Second Assistant Magistrate of Belgaum, on the 30th June 1854. Tried by Mr. A. W. JONES, Session Judge, on the 1st and 3rd August 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Serious Assault.

Prisoners.—No. 1, Luxmana bin Bheema Naik, Oopar, aged 30.
2, Hunmunta bin Bheema Naik, Oopar, aged 25.

Charge.—Attempt to commit murder (Regulation XIV. Section XXVI. Clause 1st, and Section I. Clause 2nd); in having, on the night of Tuesday the 4th April 1854, (corresponding with Chuitru Shood 7th, Shuké 1776,) in the village of Kitdal, in the Pursghur Talooka, in the Belgaum Division of the Dharwar Zillah, violently and maliciously assaulted one Kadana, of the same village, with intent to murder him, by inflicting on him blows with a pounder, club, stick, or stones, or some other equally dangerous weapons.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—In this case the prisoners Luxmana and Hunmunta are charged with an attempt to commit murder, and plead not guilty.

It appears by the evidence of the complainant, that he went on the evening of Tuesday the 4th April to talk to

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Apana, with whom he holds land in the village of Kitdal, and that while there prisoner No. 1 came up and joined them, and that after some conversation they all lay down to sleep. That the owner of the house advised him to go home to sleep, but feeling very much tired he preferred remaining where he was.

This statement differs from that he had made previously, in which he had not mentioned the appearance of prisoner No. 1 (Luxmana) in the evening.

However, his story then proceeds as before—that he was awoke by a blow, and, on jumping up, found himself violently attacked by prisoners Nos. 1 and 2, who beat him with sticks and clubs, and threw stones at him as he tried to escape, and continued to beat him after he had fallen in the attempt.

Here also is another difference, since he now allows that he did not see an axe in either of the prisoners' hands, and that they did not strike him with one.

He asserts that the prisoners beat him because of an intrigue he has had with the wife of prisoner No. 1 (Luxmana).

That the complainant was severely beaten there is no doubt, from the evidence of witnesses Nos. 5 and 6, who were Members of an Inquest held for his examination, and describe the bruises and marks of blows (eleven in number) which he had received as being such as must have been inflicted with thick sticks, while the wound on the forehead was so severe that they were of opinion it had been inflicted by an axe; and it appears that he took upwards of two months to recover from the effects of these blows.

There is, however, no reason to believe that the wound on the forehead was given with an axe.

The fact of the beating having been given by the prisoners is also proved by the evidence of the Police Patel and Shetsundees (witnesses Nos. 2, 3, and 4), who,

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hearing the cries of the complainant at the Chowkee, which is but 50 haths from the place where the assault took place, went down to see what was the matter, and found the prisoners beating him, while he lay on ground, and arrested them on the spot, with the heavy sticks in their hands, which are now before the Court.

Prisoner No. 1 (Luxmana) admits having beaten the complainant (in the statement he made before the Joint Police Officer, which he admits before the Assistant Magistrate, and before the Court), only he declares he did so because he found the prisoner trying to rob his mother-in-law's house on the night of the assault.

Prisoner No. 2 (Hunmunta) also admits before the Court the statement he had previously made and admitted before the other Authorities ; but at the very moment, and at the close of the trial, declared he was not present at the assault, and had nothing to do with it.

But there is sufficient evidence to prove he did take a part in beating the complainant, without considering his statement at all.

The Session Judge does not consider, however, there is anything to show that the beating inflicted on the complainant was intended to cause his death, as no deadly weapon was used, and there is nothing to show it was premeditated ; and therefore acquits the prisoners of attempt to commit murder. But that the prisoners assaulted the complainant, and beat him severely, is undoubted, and the Session Judge therefore convicts them both of serious assault ; in having, on the night of Tuesday the 4th April 1854, (corresponding with Chuitru Shood 7th, Shuké 1776,) in the village of Kitdal, in the Pursghur Talooka, in the Belgaum Division of the Dharwar Zillah, assaulted one Kadana, of the same village, by inflicting on him blows with a pounder, club, sickle, or stones, or some other equally dangerous weapons.

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BELGAUM.

Serious Assault.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXIX. Clause 1st of 1827, the following sentence is passed :—

That you, Luxmana, and you, Hunmunta, be imprisoned, and kept to hard labour for eighteen (18) months each.

Resolution of the Sudder Foujdaree Adawlut.—Petition rejected.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

BROACH.

[Case No. 4 of the Criminal Return of the Magistrate of Broach for September 1854. Tried by Mr. L. R. ASHBURNER, Acting First Assistant Magistrate, on the 20th September 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Robbery by Night, without Force.

Prisoners.—No. 1, Kajoo Rustom, Mussulman, aged 30.
2, Subdul Oomed, Mussulman, aged 20.
3, Hason Rustom, Mussulman, aged 28.
4, Dipa Oomed, Mussulman, aged 35.

Charge.—Robbery by night, without force ; in having, on the night of July 9th, 1854, (Ashad Shood 14th, 1910,) stolen from the field of Veridas Jebai, of the Guikwaree village of Kurkuree, 8 maunds of 'huldi,' value Rs. 50, the property of the said Veridas.

Prisoners are further charged with receiving stolen property, knowing it to be such, without giving information to the Authorities ; in having, on July 17th 1854, had in their possession in their houses, in the

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BROACH.

Robbery by Night, without Force.

village of Kanwa, various small quantities of huldi, well knowing that the same had been stolen from the field of Veridas Jebai, on the night of July 9th, 1854. (Regulation XIV. of 1827, Sections XXXVII. and XLI.)

Finding and Sentence by the Acting First Assistant Magistrate.—The circumstantial evidence against the prisoners Nos. 1 and 3 is strong. They are of the lowest class, and are proved to have had in their possession a quantity of seed huldi. Their supply is so large that they send out their wives to sell it. They do not deny that it was seed huldi, but say it was sold to them in that state by a wandering Katchia. This is a very improbable story. The very possession of so large a quantity of huldi, even if it had been of the kind usually sold for consumption, is suspicious, and becomes more so when the huldi is proved to have been of exactly the kind stolen.

Prisoner No. 1 does not appear to have concealed the huldi found in his house. His caution was probably disarmed by no inquiry having followed the robbery, and he perhaps thought the affair had blown over. The huldi found in the house of prisoner No. 3 was hidden in some cowdung ; it was probably the remains of some larger quantity.

Against prisoner No. 2 the case is scarcely so strong ; for though he is not proved to have had possession of a larger quantity of the huldi than that found in his house, yet what was found was the same seed huldi as stolen from the field of Veridas, while its being found in a cow-house adds to the suspicion.

Prisoners Nos. 1, 2, 3, and 4 are very bad characters. They have all been imprisoned for various periods, varying from three years and under. Prisoners Nos. 1, 2, and 3 are guilty of receiving stolen property, knowing it to be such, without giving notice to the Authorities. They are sentenced to imprisonment with hard labour for two (2)

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months, and for one (1) pn conjee diet. Prisoners Nos. 4 and 5 are discharged; but, with the prisoners Nos. 1, 2, and 3, are ordered each to find two securities in the sum of twenty-five (25) rupees each, commutable to three (3) months' imprisonment, for future good conduct for five (5) years; in default to remain in prison that time. (Regulation XIV. of 1827, Section XLI., and Regulation XII. of 1827, Sections XXV. and XXVII.)

Resolution of the Sudder Foujdaree Adawlut.—The Court consider that sufficient reason for demanding security is not shown, and the order is therefore annulled.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

BELGAUM.

[Petition of Kesewrow bin Townia, and another, to the Sudder Foujdaree Adawlut, praying that an Order of the Magistrate of Belgaum, requiring them to furnish security for their good conduct, might be set aside.]

Precautionary Measures.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In return to the Precept No. 561, bearing date 5th ultimo, from the Court of Sudder Foujdaree Adawlut, the Acting Magistrate has the honour to report that petitioners are two of a party of five persons charged before the Police Amuldar of Sumpgaum with committing arson. On the case coming before Mr. Grey, Third Assistant Magistrate, in charge of the Sumpgaum Talooka, that Officer found that there was not proof sufficient to bring the accused to trial, but that there was very strong suspicion against them, and ordered that they should give security for good conduct for the period of six months. This order bears date 28th June 1854.

The said order was appealed against by petition in the Magistrate's Court, and the petition rejected. The

variation in the orders given under date 5th and 6th July last, complained against by petitioners, was one of frequent occurrence. The Native Sheristadar wrote an order for the papers in the case to be sent for the inspection of the Magistrate, and when the order was brought for the signature of the Magistrate, Mr. Inverarity, remarking that no reasons were given in the petition of appeal for the reversal of the order, directed that a second 'shera' should be written, calling on petitioners to show reasons.

Upon the order issued by Mr. Inverarity, petitioners sent a second petition, and this, and the proceedings from Mr. Grey, were subsequently examined by the Acting Magistrate, who on the 18th August decided that Mr. Grey's order to give security was not to be interfered with.

Arson is a crime notoriously difficult of detection; and there is reason to believe that there is great enmity between Townapa, father of one of the persons who have petitioned the Sudder Court, and Bheemrao, who was the complainant in the case of arson in question. As giving security for good conduct for six months is not a very severe order, the Acting Magistrate is respectfully of opinion that the order requiring security was a judicious one.

The Acting Magistrate regrets the delay which has occurred in the return to the Court's Precept; but the subject had for a time escaped notice under a press of business.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Acting Magistrate is to be requested to report the amount in which petitioners are directed to find security.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In reply the Third Assistant Magistrate has the honour to state, that after the case alluded

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Precautionary Measures.

to in the Precept from the Sudder Foujdaree Adawlut had been gone into, it was found that there was not sufficient proof to support the charge, which was that of arson, but there being strong suspicions against the accused, and there being great enmity between the petitioners and complainant, the Assistant Magistrate considered there were sufficient grounds for taking such precautionary measures as would ensure the complainant against a similar attempt by them. The petitioners in the present case were therefore required to find security for good conduct for six months, according to their ability. A discretionary power of fixing the amount having been left to the Mamlutdar, as it is often necessary to do, the District Officers generally having better opportunities of ascertaining the credit that a person possesses in the village, and the amount of security which, while it ensures the prevention of the crime contemplated, is not out of the power of accused parties to procure, the Mamlutdar fixed the sum at Rs. 100, or in default to suffer six months' imprisonment. The prisoners, however, refused to find the security required.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to certify the papers and proceedings connected with the petitioner's case.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In execution of this Precept, the Acting Magistrate has the honour to certify the papers and proceedings required.

Resolution of the Sudder Foujdaree Adawlut.—The Court do not find that security is called for in this case, and the order is annulled.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SURAT.

[Petition of Baee Jeejee to the Sudder Foujdaree Adawlut, praying that an Order of the Magistrate of Surat might be annulled.]

Giving Possession of Property by the Magistrate.

Report No. 14, *of the 7th January* 1854, *of the Magistrate, in reply to a Reference from Government.*—The case complained of in the accompanying petition having been disposed of in the Magisterial Department, the Magistrate has the honour to submit the following report, for the information of the Right Honorable the Governor in Council.

On the 24th September 1850 the present petitioner, Baee Jeejee, inhabitant of the town of Bulsar, submitted a petition to the late First Assistant, Mr. Bellasis, complaining that her sister's son, Bheeklo, who had been adopted by her deceased father as his heir, and with whom she had been residing in one and the same house, would not allow her to take out her own jewels, which she had buried in the ground in a particular place in the house, and requesting assistance in the matter. That Officer directed the Police Officer of Bulsar to get the place dug in the presence of the petitioner and her opponent, and the jewels carefully taken out, and to submit a report on the subject.

The place was accordingly dug, but instead of jewels, a vessel containing Rs. 600 in cash was discovered, which circumstance was intimated to Mr. Bellasis by the Police Officer on the 9th November following. The petitioner then pointed out another place, and permission was applied for and obtained by the Police Officer to have it dug, but before this work was commenced she changed her mind, and named some other spot, which fact was brought to the notice of the First Assistant Magistrate, Mr. Reid, on the 9th January 1851, by the Police Officer. That gentleman, however, seeing the

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uncertainty of mind under which the petitioner laboured as already stated, put no more faith on her representations, and no further place was therefore allowed to be dug.

Mr. Reid subsequently had the petitioner and her opponent before him, and having listened to what each had to say, determined that the petitioner's original claim was for jewels, and not for money, and accordingly restored the latter to the petitioner's nephew, who was, in virtue of adoption, the sole proprietor of the petitioner's father's moveable and immoveable property.

At the same time, Mr. Reid did more than what his duties required of him. He obtained an agreement from the petitioner's nephew, to the effect that he would take care of her, and would provide her with food and clothing, while she behaved well towards him.

Under these circumstances, the petitioner seems to have no cause to solicit the interference of the Honorable Board in her behalf, but may be referred to the Civil Court if she still thinks she has good grounds for an action against him.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate, on a Petition of Baee Jeejee.—You are hereby requested to certify the papers and proceedings, together with your report upon the matter set forth in the accompanying petition presented to this Court by Baee Jeejee, daughter of Ruveedut, returning this Precept duly executed, or good and sufficient reason why it has not been executed, with a report of what you may have done in pursuance hereof, within ten days after its receipt.

You are further desired to return the said petition with this Precept.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In compliance with this Precept, the Magistrate of Surat has the honour to forward the

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enclosed papers, connected with the petitioner's case, amongst which will be found his report to Government No. 14, of the 7th January last, on the merits of the case; and accordingly the Precept is returned duly executed, together with the original petition.

Resolution of the Sudder Foujdaree Adawlut.—The petitioner comes to the Court after an attempt to obtain satisfaction from Government, in which it would appear she was not successful. She does not appear to the Court to have any real grievance, and the adjudication by the Police was, the Court think, correct.

The petition is rejected.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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TANNA.

[Case No. 68 of the Criminal Return of the Magistrate of Tanna for October 1854. Tried by Mr. R. H. PINHEY, First Assistant Magistrate, on the 14th and 26th October 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Prisoner.—Balajee Gunesh, Brahmin.

Making a False Entry in Public Accounts, with a Fraudulent Intention.

Charge.—Making a false entry in his accounts, with a fraudulent intention, he being a Village Accountant (Clause 1st, Section XXVII. Regulation XVI. of A. D. 1827); in that he did, on Tuesday the 11th day of April, A. D. 1854, (*i. e.* Chuitru Shood 3rd, Shuké 1776,) at the Village of Kulumbay, in the Aznoop Suza, of the Wareh Péta, of the Kolwan District of the Tanna Collectorate, receive from one Daoo Babajee the sum of Rs. 5-4-0, on account of the land revenue due to Government for the year 1853-54 by Dhurma Koosha Donga, a landholder in the village of Mandway, in the aforesaid Suza of Aznoop, in the Wareh Péta, of the Kolwan District of the Tanna Collectorate; and in that in the accounts of the said village of Mandway he did

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only credit the sum of Rs. 4-7-5 to the aforesaid Dhurma Koosha Donga, fraudulently appropriating the balance of Rs. 0-12-7 to his own purposes.

The prisoner pleads not guilty.

Finding and Sentence by the First Assistant Magistrate.—The prosecutor in this case, although the person who experienced the loss by the false entry, is not the person who can depose to any of the material points of the case, because he was absent when the instalment of revenue was paid, giving evidence in a case of gang robbery at Tanna. He states, however, that no one (the Mamlutdar or any one else) inquired whether he had remissions or no. This is at variance with the evidence of witness No. 12, the witness who examined the receipt-books of prosecutor's village of Mandway, who states that he examined prosecutor's receipt-book, and that he examined only the receipt-books of such ryots as were present. This is the evidence of one witness against another; and the Assistant Magistrate is inclined to believe the prosecutor rather than the Karkoon, for two reasons: 1*st*, were the Karkoon to say anything else, he would be convicting himself of having done his work carelessly, and, in fact, of having made no examination at all; and 2*nd*, when the Karkoon examined the books, if prosecutor's son, or friend, or any one to whose care prosecutor had committed his receipt-book, were to bring the book to the Karkoon, and the Karkoon were to ask him if the book were his, he would be almost certain to reply "Yes, mine!"—and if the question were repeated ten times, he would in all probability give the same answer. Moreover, the Karkoon made his examination, not at Mandway, but at Kulumbay, whither, most probably, the ryots' receipt-books were sent by the hand of the Patel, or of one or two of the villagers. The Karkoon states that the villagers first told him how much they had paid, and he compared that sum with

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their receipts. This can only be believed on the supposition that the doubts above raised are groundless.

The receipt-book and the village journal tally. It is therefore necessary only to consider the relative value of the testimony of the actual payers of the money, and of the witnesses called by prisoner in his defence.

The witnesses for the prosecution, Nos. 1, 5, 6, 7, and 8, are all consistent with one another. Witness No. 7, prosecutor's brother, gave the money (Rs. 5-4-0) to prosecutor's security (witness No. 5), who, in company with (in the Patel's absence) the Patel's wife (witness No. 6), paid the money to prisoner.

Prisoner states that one Yesoo, brought only Rs. 4-7-5 on prosecutor's account; that he did not take the money, but that Ambo, the son of the Patel of Mandway, took it, in the presence of the Patels of Kulumbay and Dondray, Nawu and Ragho; that the cause of this false accusation against him is the fact of his having used personal restraint to Dhaoo Kakabulee and his wife.

Nawu Ambo (witness No. 11), the son of the Patel of Mandway, denies having received the revenue of any of the villagers.

Nawu (witness No. 10) states that prosecutor's brother-in-law, whom he never saw before, and whose very name he knows not, paid Rs. 4, by putting them on the ground, and that prisoner asked for 6 annas more; but on whose account the money was paid he cannot say.

The evidence of Ragho (witness No. 13), the Patel of Dondray, burst from him with such ready zeal, that the Assistant Magistrate had no time to put him on solemn affirmation before he had told his story—that Ambo and Yesoo brought prosecutor's money, Rs. 4, and 6 or 7 annas, into a house crowded with people, who came for the same purpose. In reply, however, to the Assistant Magistrate, he stated that he can only recollect

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how much was paid for prosecutor; what any one else paid has not remained in his memory.

The Assistant Magistrate discovered subsequently, that this witness had arrived at Bassein some hours before he presented himself before the Assistant Magistrate. It is probable that he was occupied in the interim with refreshing himself, his memory included.

Prisoner is convicted of making a false entry in his accounts, with a fraudulent intention, as detailed above.

Prisoner is sentenced to pay a fine of ten (10) rupees, or, failing in this, to suffer imprisonment for one (1) month, without labour. (Regulation XVI. of 1827, Section XXVII. Clause 1st.)

Review by the Acting Magistrate on Petition.—I am obliged to reject this petition; and I do so with regret, as there is nothing on record to dispove the prisoner's assertion of his having preserved a good character during sixteen years of service.

Resolution of the Sudder Foujdaree Adawlut.—The conviction of the prisoner depends entirely upon the degree of credit due to the witness Dhaoo, the surety for the due discharge of the prosecutor Dhurma's rent. Dhurma was not present when the money was paid, and his version of the manner in which the money was raised is not consistent with that rendered by Huree, his brother. According to that witness, he advanced the sum of Rs. 5-4-0, the amount of the item in question, while Dhurma deposed that only Rs. 4 were borrowed from his brother, the residue being made "of what the goats fetched." Balee, wife of Dhurma, deposed in general terms; and her evidence, as recorded, amounts to nothing at all, though in the finding it is described as corroborative of Huree and Dhurma.

The doubt suggested by the discrepancy in the evidence of the principal witness might be given in favour of the prisoner, whom the Acting Magistrate was so

loath to consider guilty of an embezzlement of the paltry sum of 12 annas, after a faithful service of so many years.

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Making a False Entry, &c.

The conviction and sentence are therefore annulled, and the fine is to be returned.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SURAT.

[Case No. 57 of the Calendar of the Surat Sessions Court for 1854. Committed by Rao Bahadoor VENAEK GUNESH, Deputy Magistrate, on the 17th November 1854. Tried by Mr. W. H. HARRISON, Session Judge, on the 6th, 7th, 9th, and 12th December 1854. Proceedings submitted by the Session Judge, for the confirmation of the Sudder Foujdaree Adawlut.]

Murder.

Prisoners.—No. 1, Kooverio Kulian, Kolee, aged 20.
2, Morio Wagha, Kolee, aged 28.
3, Nuthoo Govind, Kolee, aged 35.
4, Mahomed wulud Shah Mahomed, Mussulman, aged 52.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI.); in having, on the night of the 28th September 1854, (corresponding to 7th Ashwin Shood, Sumvut 1910,) within the bounds of the village of Kutargaum, Talooka Chorasee, Zillah Surat, without justifiable or extenuating cause, deprived of life Ookla Bhugla, by beating and strangling him with a rope.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The prisoners in this case are accused of murder; and it is in evidence that the deceased, on the night set forth in the charge, left his hut at about 9 P. M., having been drinking, and did not return; that search was made for him that night and the day following, without success; and that on the second day after, his corpse was found, exhibiting signs of strangulation, in a field in which he

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Murder.

was usually employed. This spot had been visited in the search. The body was not then at the place, to which it had apparently been conveyed subsequently.

The evidence against the prisoners at the bar, that they committed this murder, consists of the testimony of the witness No. 6 (Bechur), who deposes that he was sleeping with Kooverio, Nuthoo, and Mahomed (prisoners Nos. 1, 3, and 4), in a hut situated in the date plantation of which the first has charge, on the night it occurred; that the deceased came there to steal toddy, and that the prisoners—Morio (prisoner No. 2) having joined them from an adjoining field—on the alarm, seized him, beat him, and strangled him with a rope, and that on the next night he also saw them carry away the body.

This witness was, by his own showing, cognizant of the murder at the time it occurred. His evidence is of no more value than that of an approver, in which position, if sent up at all as a witness, he ought to have been placed. His testimony is not of effect against the prisoners Kooverio and Morio. There is nothing else against them for it to support. As against the prisoners Nuthoo and Mahomed, the Session Judge is constrained to believe this man, as these prisoners confessed their presence at the murder, before the Police and Magisterial Authorities, and do not before the Court repudiate or explain their admissions. The party had been drinking. The deceased had come to steal toddy, and they admit only their presence when he was put death. They gave no aid to the victim, no information to the Authorities, and are liable as principals.

A verdict of guilty of murder is recorded against the prisoners Nuthoo and Mahomed. The prisoners Kooverio and Morio are acquitted and discharged.

The Session Judge proceeds, according to the provisions of Regulation XIV. of 1827, Section XXVI., to pass sentence upon the prisoners convicted as follows:—

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Murder.

That you, Nuthoo Govind, and Mahomed wulud Shah Mahomed, be transported beyond seas for the term of your natural lives, the sentence being subject to the confirmation of the Sudder Foujdaree Adawlut.

The Deputy Magistrate had no power to pardon Bechur, who was evidently concerned in this crime, and admit him as a witness, without the Magistrate's sanction. Much more did the Joint Police Officer exceed his authority in taking his evidence. The Session Judge does not consider that this man could be himself tried and punished for the offence, after the impunity implied by his having been treated as a witness in the case; but he brings to the notice of the Magistrate the illegality of the proceedings of the Deputy Magistrate, and Joint Police Officer. Except as directly supported in regard to the main facts by the confessions of two of the prisoners, the Session Judge could not place reliance on such a witness as Bechur; and the duty of the Police, after the admissions made by these prisoners, was to endeavour to trace out circumstances of corroboration, and produce proof of such, leaving it to the Magistrate to select such one of the accused as he might think fit, if necessary, to accept as approver. The statement of the prisoner Morio contains an admission of guilty knowledge of this murder on the day after it occurred. This ought to have been duly attested, so that it might have been used against him.

Resolution of the Sudder Foujdaree Adawlut.—The admissions of the prisoners, and the whole evidence recorded in the trial, justify the conviction; but under all the circumstances of the case, and the uncertainty to what extent the prisoners were actively concerned in the death of the Doobla, the Court sentence them to six (6) months' solitary imprisonment, and twenty-five (25) lashes.

The Court express their full concurrence with the Session Judge's remarks after passing sentence.

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POONA.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 17 of the Calendar of the Poona Sessions Court for 1854, tried by Mr. P. W. LEGEYT, Session Judge, assisted by Assessors. Committed by Mr. J. R. SPIERS, Deputy Magistrate. Proceedings submitted to the Sudder Foujdaree Adawlut, by the Session Judge, and reconsidered on the petition of the prisoner.]

Making Use of a Document, knowing it to be a Forgery.

Prisoner.—Vishnoo Bulal, Brahmin, aged 60.

[For the proceedings in the first stages of this case, see pages 75 to 85 of No. I. Vol. II. of these Reported Cases.]

Letter from the Session Judge to the Sudder Foujdaree Adawlut.—I have the honour to forward my further proceedings, held by order of the Sudder Foujdaree Adawlut in Case No. 17 of the Calendar for the year 1854.

The Judges will perceive that under the directions of the Court as to the law, I have recorded a conviction in the case.

I have further availed myself, for the reasons recorded of the power provided in Clause 2nd, Section XXII. Regulation XIII. of 1827, of referring the case for final sentence to the Sudder Foujdaree Adawlut.

I would remark, that since the trial was held, Apajee Sukaram (witness No. 10) appeared to give testimony in Case No. 34, in which Kasinath Venâik was charged with bribery, and that his evidence was rejected by both the Court and Jury as totally unworthy of credit, and shown by circumstances to be so.

On the other hand, the prisoner Vishnoo Bulal has been convicted in another case of conspiracy connected with forgery.

I would with the utmost deference remark, in reference to the construction of the law by the Sudder Foujdaree Adawlut, and the remarks I have recorded in my present proceedings, that it has been my anxious desire since I

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have had charge of this Adawlut to establish and sustain the practice of calling in the aid of Assessors or Punchayut. I feel also bound to state that I have generally received great and valuable assistance from their remarks, and the minuteness with which it is customary with them to criticise and comment on the evidence.

I certainly can perceive nothing in the Regulations which either declares or suggests that if the Punchayut have come to a conclusion different from my own, that I necessarily must be right, and they necessarily must be wrong; and that I am precluded, if I should feel that their opinion on any particular point was of weight, and more likely, from their superior acquaintance with the habits of Native society, to be more correct than my own, from adopting their conclusion as my decision.

The *decision* is still mine, not theirs; and I respectfully submit that all the Regulation does is that which it was wise and proper to do when constituting a tribunal composed of an European President and a Native Jury, namely to determine with whom the *decision* should ultimately rest. Had it been silent on this point, the majority would have determined, or the Punchayut would have insisted on their finding being the decision of the Court. The Regulation seems to me to be merely directed to exclude any such right on the part of the Punchayut, and to reserve it in all cases for the European President, still leaving him at liberty to adopt the views of the Punchayut, though he may, according to his own lights, have arrived at a different result.

I trust that this argument will not be deemed disrespectful or irrelevant; it has arisen on a point of considerable importance, and one which, in making use of juries, should be definitively settled and understood.

Further Proceedings of the Session Judge, submitted with the above.—The prisoner has been again placed at

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the bar, and the case resumed from the point at which the report of the Punchayut was recorded.

The Session Judge has already declared his dissent from the opinion at which the Punchayut arrived, and the Sudder Foujdaree Adawlut has interpreted the law to mean that the *decision* of the Court must be in conformity with the opinion of the Session Judge, and not with that of the Punchayut.

The Session Judge would observe, with deference, that it appears to him that the Regulations do not bear out this construction ; and that it is not absolutely necessary that the reasoning of the Session Judge should be identical with the decision recorded. He would draw a decided distinction, and he thinks a legal one, between his individual opinion and his decision ; and would respectfully submit, that although his own impressions may be as they are, that the prisoner is guilty, yet that the unanimous opinion of five men competent to value Native evidence is not an insufficient cause for creating a doubt and distrust of his own opinions ; and that, without changing them, he is not only at liberty, but reasonably constrained to defer to them, and *decide* accordingly. This is what the Session Judge did, and it is a course, he would respectfully submit, neither contrary to reason nor justice, nor to the law, which provides the *decision* shall be vested in the authority presiding in the Court. The Sudder Foujdaree Adawlut has in this case annulled this *decision*, and pronounced it illegal, and commanded the trial to be completed on the principles it has declared to be the law.

The Session Judge, after re-considering the case, and the evidence adduced, and what has been urged against the procedure by the prisoner, is of opinion, as before, that the evidence of witnesses No. 6 and No. 8 shows a guilty knowledge on the part of the prisoner of the fraudulent nature of the Exhibit No. 2, which he had

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procured for and given to Dhondo Bulal, and that the evidence of the accomplice (Apajee Sukaram) strengthens the impressions produced by the circumstances brought forward by the witnesses Nos. 6 and 8. The Court further observes that the charge itself only includes the uttering a forged document with a fraudulent intent, and that this is comprehended in the evidences of Nos. 6, 7, and 8, without drawing very tangibly on Apajee Sukaram's evidence; and this being the impression made on the Court, and it having been ruled that this impression, if not done away with by a contrary opinion of the Punchayut, must necessarily rule the decision, the Court is constrained to record a verdict of guilty against Vishnoo Bulal Furkay, and accordingly finds him guilty of making use of a document, knowing it to be a forgery, in the manner set out at the commencement of these proceedings.

Under the peculiar circumstances of the case, and the fact that the prisoner has subsequently to the trial in this case been convicted and sentenced to two (2) years' imprisonment on a charge of conspiracy connected with forged documents, which punishment the Magistrate deemed sufficient, and did not offer evidence in another case against the prisoner, the Session Judge resolves to refer the trial, without passing sentence, to the Sudder Foujdaree Adawlut, under Clause 2nd, Section XXII. Regulation XIII. of 1827.

The prisoner is remanded to the Jail, to await the final orders of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The Court have already decided the point of law, and there being nothing to refer under the Regulation quoted, the case must be returned to the Session Judge to complete, as the Court do not find a "sufficient cause" for this reference.

Sentence passed by the Session Judge.—That you,

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prisoner Vishnoo Bulal, be imprisoned on the conviction recorded against you in this case on the 18th August 1854, for the space of one (1) year, and which sentence is to commence from the expiration of that passed on you in Case No. 42 of 1854.

Resolution of the Sudder Foujdaree Adawlut.—To be recorded.

Petition from the Prisoner to the Sudder Foujdaree Adawlut.—[Representing that he did not commit the crime, and praying to be released.]

Minute recorded by Mr. A. Remington.—I adhere to the opinion formerly recorded on review of this trial, that the evidence was quite insufficient to sustain the conviction, and that the judgment of the Assessors, being correct, should have been allowed full effect, and *that* I am now prepared to give it.

Minute recorded by Mr. M. Larken.—I do not consider that I am called upon to comment upon Mr. Remington's remarks upon the merits of this case, as recorded in his Minute of the 12th of July last, pages 77 to 80 of the Foujdaree Reports for that month. The case is now before the Court, on appeal from the prisoner. The impression entertained by my mind, upon a review of the evidence, is that the prisoner is guilty, and I would reject the petition.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

Minute recorded by Mr. W. H. Harrison.—In this case, the prisoner appeals against his conviction of making a fraudulent use of a forged document, on the ground that the charge is not proved.

The chief evidence is that of parties who may be suspected of complicity in the transaction—of a character, in fact, to be imputed in such a case.

That the Paper No. 2 is a forgery appears clearly proved.

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The witness No. 6 (Dhond Bulal) swears that he got this paper from the hands of the prisoner. He says more of an improbable nature, and apparently with the object of displaying ignorance of the fraud; but this does not necessarily invalidate his testimony as to the main facts, in which he is supported by witness No. 7 (Balajee), who deposes that he saw a stamp given. Putting its proper value on this, and no more, the approver (witness No. 10), who can only be heard in corroboration, does fully bear out witnesses Nos. 6 and 7.

The Session Judge records that he sees no reason to distrust these witnesses, neither did the Jury give any; neither does the defence afford any reasonable grounds for disbelieving them. The Assessors who sat in this case found that the Paper No. 2 was a forgery, and that fraudulent intent was not proved; nor was it shown how the prisoner became possessed of the document. It rested with the prisoner, however, to show that he came innocently by a forged stamp, and as he did not do this, the intent to defraud the revenue is to be justly inferred from his using it.

The prisoner has not relied, in his appeal, on the fact that he has been sentenced after an acquittal had been recorded, and as this procedure was, moreover, directed by a competent Court, that point is not now open to my consideration. In my opinion this petition should be rejected.

Final Resolution of the Sudder Foujdaree Adawlut on Appeal.—The petition of the prisoner is rejected.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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DHARWAR.

[Case No. 113 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. J. H. PELLY, Supernumerary First Assistant Magistrate, on the 30th August 1854. Tried by Mr.

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DHARWAR.

Removing her own Pregnancy by Procuring Abortion; and Aiding in the same Offence.

A. W. JONES, Session Judge, on the 14th, 15th, 16th, and 18th September 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Roodrawa kom Eerapa.]

Prisoners.—No. 1, Roodrawa kom Eerapa, Lingaeet, aged 22.

2, Nagawa kom Chenbusya, Lingaeet, aged 50.

Charge.—Against prisoner No. 1, removing her own pregnancy, by procuring abortion (Regulation XIV. Section XXVIII. of A. D. 1827); in having, on the night of Saturday the 29th April 1854, (corresponding with the 2nd Wuishakh Shood, Shuké 1776,) in her own house, in the village of Elapoor, in the Hooblee Talooka of the Dharwar Division and Zillah, caused to be inserted into her person by prisoner No. 2 (Nagawa) a medicated twig, thereby causing an abortion, and removing the pregnancy, with which she had gone about six months.

And against prisoner No. 2, aiding in the abovenamed offence (Regulation XIV. Section XXVIII., and Section I. Clause 5th, of A. D. 1827); in having, at the aforenamed time and place, assisted to insert, or inserted, the medicated twig into the person of prisoner No. 1, and thereby caused the abortion, with having caused which she is charged.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—In this case prisoner No. 1 is charged with procuring abortion, by the removal of her own pregnancy, and prisoner No. 2 is charged with aiding and assisting her therein.

It appears that a near neighbour of prisoner No. 1, who knew that she had been pregnant for several months, saw a nurse go into her house on Thursday the 27th April, and as her sister had told him she was in great pain, he suspected there was an intention of procuring an abortion, and gave information thereon.

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On this the Police Authorities went to the house, and found a Mussulmanee nurse there, who, on being questioned, said she had been called in, as the first prisoner was in great pain, and had removed a small twig of fresh milk-bush from her person.

This twig was identified before the Court by this woman, and by the informant in the case; and it is shown by the evidence of the Civil Surgeon* that the insertion of such a twig would in the generality of cases cause abortion.

It is also proved before the Court that prisoner No. 1 admitted she had had this twig inserted for the purpose of causing abortion, because she could not support the child. This statement was repeated before several different Authorities, but was repudiated before the Supernumerary First Assistant Magistrate, and the Sessions Court; the Session Judge considers, however, there is no doubt, either that it was made, or that it is true, and therefore convicts prisoner No. 1 of removing her own pregnancy, by procuring abortion.

Against prisoner No. 2 there is no evidence whatever, and she is acquitted.

The Session Judge thinks it right, however, to draw attention to the conduct of the Joint Police Officer in taking the statement of prisoner No. 1. It appears that she was in great pain, in consequence of the insertion of the twig into her person, but that the abortion had not yet been actually caused when the first part of her statement was taken; that about an hour after the pains

* *Opinion of the Civil Surgeon.*—The juice of the milk-bush is a very powerful irritant, and if applied in any quantity would certainly produce miscarriage. The quantity which the twig now produced would afford (when fresh) would be quite sufficient for the purpose. It might remain inserted for some time before the effect was produced. A very severe attack of intermittent fever might produce miscarriage. It is possible that the milk-juice might be inserted without producing abortion, but in the generality of cases it will do so.

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came on, and the miscarriage occurred; and that after about another hour she was again brought out, and had to give a further statement. Now there was no urgent necessity for taking this statement at all on that day, for there was already sufficient evidence obtained as to the means employed to procure the abortion; and it should not have been taken then, because it could only have been done at the risk of her health, and at a time when she could hardly have got over the pain of the miscarriage.

Prisoner No. 1 has, however, no excuse whatever for the act. She is said to have been pregnant by her husband, and to have removed the pregnancy on the plea that she had no means of supporting the child; but there is nothing to show that she is in any extreme state of poverty. She is convicted of removing her own pregnancy, by procuring abortion; in having, on the night of Saturday the 29th April 1854, (corresponding with the 2nd Wuishakh Shood, Shuké 1776,) in her own house, in the village of Elapoor, in the Hooblee Talooka of the Dharwar Division and Zillah, caused to be inserted into her person by prisoner No. 2 (Nagawa) a medicated twig, thereby causing an abortion, and removing her pregnancy, with which she had gone about six months.

And after considering the nature of the crime committed, and the punishment assigned in Regulation XIV. Section XXVIII. of 1827, the following sentence is passed:—

That you, Roodrawa kom Eerapa, be imprisoned and kept to hard labour for one (1) year.

Resolution of the Sudder Foujdaree Adawlut.—The confession of the prisoner was obtained under circumstances which would necessitate its rejection as evidence against her; but the Court find sufficient proof of guilt without reference to the confession. The sentence is mitigated to six (6) months' imprisonment, with hard labour.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges. 1855 January 10.

SURAT.

[Case No. 56 of the Calendar of the Surat Sessions Court for 1854. Committed by Rao Bahadoor VENAEK GUNESH, Deputy Magistrate, on the 13th November 1854. Tried by Mr. W. H. HARRISON, Session Judge, on the 12th, 13th, 15th, and 16th December 1854. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Prisoners.—No. 1, Heeria Teekma, Dhero, aged 22. Murder; and Robbery by Night.
2, Mahomed Kasum, Mussulman, aged 28.
3, Govindio Kusno, Dooblo, aged 30.
4, Bhania Pursotum, Kolee, aged 45.

Charge.—Murder; and robbery by night (Regulation XIV. of 1827, Sections XXVI. and XXXVI.); in having, at 8 P. M. on the 20th September 1854, (corresponding with Bhadrupud Wud 13th, Sumvut 1910,) within the bounds of the village of Pal, Talooka Oolpar, Zillah Surat, wounded one Bhoola Kawula with a hatchet and sticks, so that he then and there died; and having stolen, on the abovenamed place and date, the sum of Rs. 21-12-0 in money, the property of the said Bhoola Kawula.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The prisoners in this case are accused of murder, and robbery; and it is in evidence before the Court, that the deceased Bhoola Kawula, a Parsee toddy-drawer, left his house on the date set forth in the charge, to go and stay, as was his wont, at his date plantation, situated in the village of Pal. There he had a hut, in which it appears he remained for days at a time. The next day his food was taken from his house, as customary, to his hut, by the prisoner No. 2 (Mahomed), who is represented to have worked with him for five or six years; and the day after that,

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intelligence was brought to his wife that he had been murdered. This she verified by going to the hut, where his body lay, the head exhibiting severe wounds, as of an axe or hatchet. The widow deposes that her husband took some money with him,—how much she does not know,—when he left home last; and the witness No. 6 testifies to having lent him about Rs. 20 at that time. No money was found with the corpse, or in the hut. The proof that the prisoners at the bar committed this crime consists, in the first place, of their confessions before the Police Authorities and Deputy Magistrate, in which they severally admit their presence at the murder, each throwing the guilt of principal on one or more of the others; the substance of the whole being that the victim's life was taken by them, his brains being knocked out with a hatchet, and blows of one or more heavy bamboo sticks, for the sake of the few rupees he had with him. These confessions are proved by the evidence of the witnesses Nos. 7, 12, 13, 14, 15, 16, 17, 19, and 20, to have been freely and voluntarily given; and although now the prisoners have vaguely asserted that they were ill-treated, they offer no particulars on which to ground inquiry, and the Session Judge does not see reason to believe that any improper means have been in this case resorted to to induce them. Their admissions of guilt are corroborated in this Court—as regards prisoner No. 1 (Heeria), by the witnesses Nos. 7, 8, and 9, who apprehended him, and depose that he from the first admitted his presence at the murder; by his absence from his duty on watch on the night it occurred, and his own present admission that he was at the spot. The stains, proved to be those of blood, on the handle of his axe, are not relied upon against him, for, as he alleges, it might be blood of an animal that he, a Dher, had cut up. The Session Judge can come to no other conclusion than that this prisoner is guilty.

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As regards prisoner No. 2 (Mahomed Kasum), his admission of guilt is corroborated by the fact of a hatchet having been found in his house, stained on its handle with blood, as proved by the Civil Surgeon* (witness No. 18), of which he gives no account. Nor does he give any of himself or his actions at the time of the murder, of which he denied all knowledge on first apprehension, and shortly after, as the witnesses Nos. 7, 8, and 9 depose, admitted his presence at, on Heeria (prisoner No. 1) declaring his guilt. He offers no other defence in the Sessions Court than a simple denial, but the Session Judge cannot doubt his share in the crime; and from the circumstances of the case, and his connection with the deceased, it is to be reasonably inferred that he was present as a principal if present at all.

As respects prisoner No. 3 (Govindio Kusno), there is, in corroboration of his confession, the fact that a bamboo club, shod with iron, was found in his house, having stains, proved to be those of blood, upon it. Of this he gives no explanation before the Sessions Court, where his defence is a simple denial of the charge. The Session Judge finds his concern in the murder to be established.

Prisoner No. 4 (Bhania Pursotum) denied the charge when he was first apprehended. He is implicated by the statements of the other prisoners, but these cannot be accepted against him. His confession before the Police Amuldar and Deputy Magistrate does not receive corroboration before the Court, and against him the charge is not proved.

As regards the robbery, there is no confirmation

* *Opinion of the Civil Surgeon.*—I have examined the two hatchets shown to me in Court, and find blood stains on the handles of each, also on the iron head of the larger one. I also find blood on the bamboo club. On the clothes sent to me for examination I cannot trace blood stains. If such existed, they have apparently been washed out. I cannot of course swear that the stains are those of human blood.

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produced of the prisoners' statements made elsewhere in regard to it. There is evidence of the deceased having taken money from home, and this supplies a motive for his murder; but who got it, and how it was disposed of, there is no independent proof before the Court.

A verdict of guilty of murder is recorded against the prisoners Heeria Teekma; Mahomed Kasum, and Govindio Kusno.

The prisoner Bhania Pursotum is acquitted and discharged.

The Session Judge proceeds to pass sentence upon the prisoners convicted, in accordance with the provisions of Regulation XIV. of 1827, Section XXVI. as follows:—

That you, Heeria Teekma, and you, Mahomed Kasum, having been convicted of murder, be hanged by the neck until you be dead, at the usual place of execution at Surat; and that you, Govindio Kusno, having been convicted of murder, be transported beyond seas for the term of your natural life. This sentence being subject to the confirmation of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. A. Remington.—Prisoner No. 3 (Govindio Kusno), in his petition to the Court, admits, almost in the terms of his previous confession, that he was present when the murder was committed, and that a stick or club taken from him was used in the assault.

The recorded corroboration of his confession, which was withdrawn at the trial, consisted of a bamboo, stained with blood, being found in his house. It was lying about, without any apparent attempt at concealment, and there was nothing in the prisoner's manner, when apprehended, to excite suspicion. But his clothes were bloody, and the witness he named to account for this, declared he knew nothing about killing a goat; and as he, Govindio, was really present at the murder, the inference is strong that it was the blood of deceased.

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Under these circumstances, the corroboration is, I think, sufficient, and the convictions of prisoners Heeria and Mahomed Kasum must also be confirmed, the first-named making in his petition to the Court a like admission of a guilty presence.

Resolution of the Sudder Foujdaree Adawlut.—The convictions are confirmed, and the prisoners Heeria Teekma (No. 1) and Mahomed Kasum (No. 2) are sentenced to transportation for life.

The sentence on Govindio Kusno (prisoner No. 3) is confirmed.

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POONA.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 66 of the Calendar of the Poona Sessions Court for 1854. Committed by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 21st August 1854. Tried by Mr. P. W. LEGEYT, Session Judge, on the 20th and 21st November 1854, assisted by Assessors. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Naro Damodur.]

Forgery; and Instigating the Prisoner to Commit the Crime laid to his Charge.

Prisoners.—No. 1, Govind Gunesh, Brahmin, aged 18.

2, Naro Damodur, Kast, aged 25.

Charge.—Against prisoner No. 1, forgery (Regulation XIV. of 1827, Section XVII. Clause 1st); in having, under date 19th May 1854, (corresponding to Wuishakh Wud 5th, Shuké 1776,) in the city of Poona, affixed the signature of complainant Kasheebaee kom Gunesh Shastree to a mortgage bond for Rs. 250, and deed of rent, making over her house, situated near the Visrambay, to prisoner No. 2 (Naro Damodur), and likewise affixed her signature to another bond for Rs. 50 on the following day, with the intent of defrauding the complainant.

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And against prisoner No. 2, instigating the above prisoner to commit the crime laid to his charge (Regulation XIV. of 1827, Section XVII., and Section I. Clause 5th); in having, under date and at the place abovementioned, instigated the prisoner Govind Gunesh to commit the forgery laid to his charge, with the fraudulent intent of self-benefit.

The prisoner Govind Gunesh pleads guilty, and prisoner Naro Damodur pleads not guilty.

Finding and Sentence by the Session Judge.—The history of this case is as follows :—

The complainant is a widow, residing in a house which was left by her deceased husband as ancestral property to her and her son, the prisoner Govind, in the city of Poona.

Govind is a young man, of apparently seventeen or eighteen years of age, of weak intellect, and dissolute habits. The prisoner No. 2 (Naro Damodur) is by trade a money-dealer.

He and Govind had formed an acquaintance, and in Wuishakh last Govind wrote the Exhibits A, B, C, which are two bonds and a rent-note, for Rs. 250, Rs. 50, and Rs. 3 respectively, and in the first the dwelling-house of the widow Kasheebaee was mortgaged to the prisoner Naro, in consideration of his having advanced the sum mentioned in the bonds.

It appears in evidence, that these documents were written by Govind, and that he and Naro both solicited certain parties, the witness No. 3 (Deojee), No. 4 (Naro), and No. 5 (Balajee), to attest the signatures of the bonders, one of whom was Govind Gunesh himself, and the other his mother Kasheebaee, the acknowledgment of the latter having been forged by Govind. The prisoner Govind has pleaded guilty, and made a full declaration of his part in the nefarious proceedings.

The prisoner Naro declares the transactions *bonâ fide*,

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and that the bonds were written and given to him by the widow and Govind, and that he paid the full consideration for them in the presence of witnesses.

The question for trial is, whether the evidence recorded proves that prisoner No. 2 (Naro) did instigate prisoner No. 1 (Govind) to commit the crime of which he is undoubtedly guilty, and on which the Court has arrived at the following conclusion:—

The Court finds the charge of forgery against the prisoner Govind Gunesh proved by his own plea, recorded in this trial, and subsequent confirmation of his admission before the Police, recorded as No. 1.

The Court finds from the evidence of witnesses No. 2 (Kasheebaee), No. 3 (Deojee), No. 4 (Naro), and No. 5 (Balajee), and the statement of prisoner Naro (No. 11), that the charge of instigating and aiding the prisoner Govind Gunesh, in fabricating and forging the signature of Kasheebaee to the Exhibits A, B, and C, with the fraudulent intent of making a false claim of Rs. 250 and Rs. 50 on the said Kasheebaee, is fully proved, and records a verdict of guilty against him.

The Court, in passing sentence, bears in mind the respective features in the case of the two prisoners: Govind a weak, silly lad, the dupe of the elder prisoner's avaricious and grasping propensities; prisoner No. 2 (Naro Damodur), a man engaged in the trade of money-dealing, and entering on whatever speculation he undertook with a full ability to calculate on the probable result. There can be little doubt that a repetition of the disgraceful frauds which have so frequently been practised in this city by means of forged documents, by which the Courts of Justice of this Zillah have been the unconscious instruments of gross injustice and oppression, was contemplated to be put in action in this case; and in apportioning a sentence, the Court records its belief that nothing but convincing proof that such malpractices will

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meet with rigorous and degrading punishments at the hand of justice, will check the prevailing propensity in this city to resort in the most reckless and daring manner to the crime of forgery, with as little compunction as a trader would undertake an honest promising speculation.

The following sentences are then passed :— .

That you, Govind Gunesh, be imprisoned for three (3) months, and then discharged. (Regulation XIV. of 1827, Section XVII. Clause 1st.)

That you, Naro Damodur, be imprisoned with hard labour for the period of two (2) years, the second, fourth, and sixth months in solitary imprisonment; and that you do receive in the public streets opposite the Boodwar Wara, twenty days after this date, twenty-five (25) lashes on your bare back. (Regulation XIV. of 1827, Section XVII., and Section I. Clause 5th.)

Minute recorded by Mr. A. Remington.—The main ingredient in every species of forgery is the intent to defraud, by which, I apprehend, is meant, not that a party should have present in his mind an intent to defraud a particular party, if the consequence of his act must necessarily, or possibly, be to defraud, but there must be a possibility of a third party being defrauded.

Viewing the offence in that light, and adverting to the fact that the liability under Exhibit A did not affect Kasheebaee, (as, Govind having attained his majority, she was no longer his guardian, and the property, being ancestral, belongs to the son exclusively,) I should have considered that Govind, if, as he probably was, the dupe of Naro, was an accomplice in defrauding, not his mother, but himself. But the case is altogether different with Exhibit B, which purports to have been executed by Kashee and Govind, jointly and severally, and the debt, if *bonâ fide*, might have been demanded from one or the other, and consequently the use by Govind of his mother

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Kashee's name, without her permission, was forgery, and the Sessions Court found, I think correctly, that Naro was the instigator of it.

I would not, therefore, interfere with the conviction, nor the punishment, which was amply merited by both prisoners.

Minute recorded by Mr. M. Larken.—The Session Judge has found the prisoner guilty, upon the evidence of the prosecutrix, and the three witnesses to the bonds; and his own statement, admitted to have been given before the Court. The prosecutrix denies her signatures, and her participation in everything connected with the transactions to which the bonds refer, either directly or indirectly.

The evidence of witness Deojee (No. 3) is useless for the prosecution, as there is nothing to prove that the paper to which he says Govind affixed his attestation—for he implies that he can neither read nor write, himself—was either of the papers recorded A, B, and C.

Naro Pundit (witness No. 4) deposes that he attested A and B, at Govind's desire, at the prisoner's house; that the prosecutrix was not present, but that her name was in and to the bond; that he satisfied himself that Govind was the principal, and that he attested the bond accordingly.

Balajee Puradkur (witness No. 5) deposes that he attested A, B, and C, at the prisoner's solicitation, and under the direction of Govind; that the prosecutrix was not present, but that the purport of the bond showed that she and Govind were parties to it; and it would appear that he observed the signature of prosecutrix upon the bond.

The prisoner says that the prosecutrix affixed her mark to the three papers in the presence of Deojee (witness No. 3) and Naro (witness No. 4), and that Govind got Puradkur (witness No. 5) to attest them too. Before

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the Deputy Magistrate he called three witnesses to prove the connection of prosecutrix with the bonds, but they did not do so. He asserts that the witnesses to the bonds have conspired with the prosecutrix and Govind.

The prisoner is convicted of instigating and aiding Govind in the forgery of the signature of prosecutrix. Setting aside all consideration of the point of Govind's incompetency to dispose of the property, which has been assumed, and is an assumption which begs the whole question, I cannot find any proof that the prisoner instigated or aided Govind in the forgery, which the latter admits he was guilty of; and I would annul the conviction and sentence upon the petitioner Naro Damodur.

[The concluding paragraph of Mr. Larken's Minute is omitted, as it is embodied in the Final Resolution of the Court.]

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

Minute recorded by Mr. W. H. Harrison.—In this case, Naro Damodur appeals against his conviction of instigating Govind Gunesh to the commission of forgery. Govind Gunesh admits his share in the crime, and avers that the petitioner instigated him to forge his mother's consenting mark to two bonds. This statement should not have been quoted as valid against Naro. I am of opinion, however, that the evidence recorded otherwise bears out the conviction of this prisoner. His pleas are that it is a conspiracy against him, and that as he had not made use of the forgery, he should be released. The first point he failed to support, and as to the second, using the forgery would have been an offence distinct from that share in the crime which has been brought home to him. I would reject the petition.

Final Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

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The Deputy Magistrate is to be told, that when prisoners are brought before him, he should arraign them on the charge preferred, and not reserve all mention of it till the close of his proceedings.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SHOLAPORE.

Murder.

[Case No. 108 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. A. BOSANQUET, Acting Second Assistant Magistrate, on the 7th December 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 12th December 1854. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Darkia wulud Balajee, Mhar, aged 25.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, on the night of Thursday the 9th November 1854, (corresponding with Bruhusputwar, Kartik Wud 5th, Shuké 1776,) in the Mharwada at Kusba Wyrag, in the Barsee Talooka of the Sholapore Zillah, purposely, and without justifiable or extenuating cause, deprived of life his mother Déwaee kom Balajee, aged about fifty years, by striking her on the head with a stone.

Finding and Sentence by the Session Judge.—The prisoner is charged with murder, and pleads not guilty.

It appears, that being given to gambling, he was in the habit of obtaining money from his mother, the deceased, for the purpose; and when she refused to supply him, of ill-treating her; the witness Ishwura (No. 5) deposing to his having on one occasion put a 'dhotur' tied in a noose round her neck, and dragged her to the Chowree, where he kept her until she procured 4 annas to give him; another witness, Keroo (No. 6), to having heard him say to his mother on another occasion—"You won't give it (money) until you die"; and a third witness,

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Murder.

Musia (No. 8), that to extort money from her he was in the habit of putting a dhotur round her neck, and dragging her about the town, calling her a *bear* and a *tiger*.

On the day immediately preceding the night on which the murder was perpetrated, the prisoner and deceased were overheard disputing on the subject of money he wished her to give him (by the witness No. 5, Ishwura), and not having obtained any, he seems to have determined to murder her.

He procured a large stone from a Mhar's well, which at 11 o'clock at night he carried under his dhotur, and deposited near the water-place at deceased's house, and then went to the Chowree. There he seems to have remained until 2 or 3 o'clock in the morning, when he returned, and taking the stone, entered the house, where the deceased was sleeping near her son Bheemia (witness No. 9), and dashing it on the side of her head, thus cruelly murdered her.

The Report of the Members of the Inquest held on the body of the deceased, proved by the evidence of witnesses Bapoojee and Bhugwunt (Nos. 2 and 10), and recorded for the prosecution No. 4, shows that the deceased died from the effects of a severe blow from a stone on the right side of the head, which crushed it, and fracturing the bones, forced out the left eye, and caused blood to exude from the nose and ears.

The prisoner, when before the Police Amuldar, made a full confession, admitting that in consequence of a quarrel with his mother, he murdered her by dashing a stone upon her head when asleep, and that he then made off, returning to the Chowree, where his brother Eknath was also sleeping, and from whence he had gone to perpetrate the deed; and although he has since repudiated this confession, both when before the Acting Second Assistant Magistrate, and also before this Court, yet it is proved by the evidence of the attesting witnesses

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thereto, Bhugwunt and Mhadow, to have been freely and voluntarily made, without force or compulsion, promises or threats; and it is further most strongly corroborated by the evidence of the witness Ishwura (No. 5), who deposes to the quarrel that took place between the prisoner and the deceased the day preceding the murder, to his having at 10 or 11 o'clock on the night of the murder, when going out for a necessary purpose, met the prisoner carrying something under his dhotur; to his having refused to tell him what it was; to his having consequently lifted up his dhotur, and found it to be a large stone, and on his asking him where he was carrying it to, to his having answered—"It is no business of yours; I am master of my own house"; by the evidence of the witness Bheemia (No. 9), who deposes that as he was sleeping near his mother (the deceased) on the night of the murder, he was suddenly awoke up by hearing a sound thus—'dhup,' and found that she had been murdered by a blow from a large stone on the side of the head, and that he then went to the Chowree to inform his brother Eknath; and by the evidence of the witnesses Ishwura, Keroo, Andia, and Musia (Nos. 5, 6, 7, and 8), all of whom depose to Bheemia's having come to Chowree immediately after the murder, and told Eknath that the prisoner had murdered their mother, by throwing a stone upon her, and had run off (the passage in the prisoner's confession on this subject being as follows:—"Bheemia then came up to the Chowree, and mentioning my name, informed my eldest brother," &c.)

The prisoner makes no defence; and as, under the above circumstances, the Court can entertain no doubt of his guilt, he is convicted of murder; in having, on the night of Thursday the 9th November 1854, (corresponding with Bruhusputwar, Kartik Wud 5th, Shuké 1776,) in the Mharwada at Kusba Wyrag, in the Barsee

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Talooka of the Sholapore Zillah, purposely, and without justifiable or extenuating cause, deprived of life his mother Déwaee kom Balajee, aged about fifty years, by striking her on the head with a stone.

And after maturely considering the nature of the offence committed, the relationship of the prisoner to the deceased, the fact of there being no circumstance of extenuation apparent in the case, and also the punishment provided for the same by Clause 4th, Sect. XXVI. Regulation XIV. of 1827, the following sentence is passed :—

That you, Darkia wulud Balajee, be hanged by the neck until you be dead, at the usual place of execution at Sholapore. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner's conviction rests upon his confession before the Police, retracted when on examination before the Assistant Magistrate.

The corroboration to be found in the case, required to give weight to the confession, is—1*st*, the deposition of Ishwura (witness No. 5), who says he saw the prisoner at night two or three hours before the murder, with a stone concealed under his clothes, similar to a stone which was before the Court, and assumed to be the stone which occasioned the death of the deceased ; 2*nd*, the conversation of the prisoner's two brothers, Eknath and Bheemia (witness No. 9) at the Chowree ; and 3*rd*, the general ill-treatment of his mother by the prisoner. Of these three points, the second is hearsay, and is not before the Court, in any way, to be of use for the prosecution. The prisoner's misconduct towards his mother is indicative that he might become a parricide ; but is not evidence of the particular act of which he is accused; and in default of all other proof, such as whether any stone was missed from the Mhar's well, or of anything which might have been elicited from Bheemia (witness

No. 9), the Court do not think the evidence of Ishwura (witness No. 5) is sufficient corroboration of the retracted confession, and the prisoner must, in the Court's opinion, be acquitted and discharged.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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TANNA.

[Case No. 116 of the Calendar of the Konkun Sessions Court for 1854. Committed by Mr. G. S. FORBES, Acting First Assistant Magistrate, on the 21st December 1854. Tried by Mr. R. KEAYS, Session Judge, on the 26th December 1854. Proceedings submitted for the confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Luximon oorf Sukya bin Muloo, Kathkuree, aged 30.

Wilful Murder.

Charge.—Wilful murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, on the 30th November 1854, (corresponding with Margsheersh Shood 11th, Shuké 1776,) about 8 o'clock A. M., within the limits of Moujé Kanore, Talooka Callian, Zillah Konkun, wilfully and maliciously cut the throat, and inflicted other wounds with a 'wula' or reaping-hook, on different parts of the body of one Mularee bin Dhurmajee Harud, from the effects of which he then and there died.

Finding and Sentence by the Session Judge.—The prisoner is accused of wilful murder in the instance set forth in the charge, and pleads guilty. He has also fully confirmed his confession before this Court; therefore no comment on the evidence seems necessary. The prisoner is convicted, under the provisions of Section XXXVII. Regulation XIII. of 1827, of wilful murder; in having, on the 30th November 1854, (corresponding with Margsheersh Shood 11th, Shuké 1776,) about 8 o'clock A. M., within the limits of Moujé Kanore, Talooka Callian, Zillah Konkun, wilfully and maliciously cut the

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throat, and inflicted other wounds with a wula or reaping-hook, on different parts of the body of one Mularee bin Dhurmajee Harud, from the effects of which he then and there died.

In the absence of all evidence regarding the cause which led to this most cruel murder, the Court is bound to believe that in this instance the deceased was so far the aggressor that he insulted the prisoner in the first instance by spitting at him, and, on receiving a similar insult from the prisoner, struck him a blow in the face with his fist. This is the only extenuating feature in the case. The darker points are the great age of the deceased, and the number of wounds inflicted on him by the prisoner. Under all these circumstances, the Court does not feel justified in withholding the extreme sentence of the law, but recommends the prisoner to the mercy of the superior Court.

Sentence.—That you, prisoner Luximon oorf Sukya bin Muloo, be hanged by the neck until you be dead, at the usual place of execution at Tanna. (Regulation XIV. of 1827, Section XXVI. Clause 1st.)

This sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

* * * * * *

The Court views with much satisfaction the conduct of witnesses Weekya, Krishna, and Rajya in this case. It was owing to the active steps taken by them, when they first discovered the dead body, that the prisoner has been brought to trial. Conduct of this sort is so very unusual to persons of this caste, that the Court considers it should be encouraged, and directs that a reward of Rs. 5 each be presented to them as a mark of the Court's approbation.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed, and the prisoner is sentenced to transportation for life.

The Session Judge is to be informed that he should have read and recorded the 'punchayutnama.'

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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[Case No. 102 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. J. A. G. DUFF, Third Assistant Magistrate, on the 2nd November 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 4th November 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner.—Soma wulud Bhugwunta, Mahratta, aged 40.

Perjury.

Charge.—Perjury (Regulation XIV. of 1827, Section XVI. Clause 1st); in having, on Thursday the 3rd day of August 1854, (corresponding with Bruhusputwar, Shrawun Shood 9th, Shuké 1776,) at Mohol, in the Talooka of that name, and Sholapore Zillah, before the Joint Police Officer of that Talooka, whilst giving evidence for the prosecution in the case of Myrala and Natajee, charged with highway robbery, wilfully made a false statement on solemn affirmation, to the effect that the said Myrala and Natajee, with two others, had robbed him on the road of property valued at Rs. 20-9-0.

Finding and Sentence by the Session Judge.—The prisoner is charged with perjury, and pleads not guilty.

It appears that he preferred a complaint against two persons (Myrala and Natajee) of having assaulted and robbed him on the high road, of property valued at Rs. 20-9-0, and that his deposition on solemn affirmation to this effect was taken on the 3rd August 1854, before the Joint Police Officer of Mohol.

This deposition he, before the Acting Police Amuldar of Mohol, on the 16th August 1854, when charged with perjury, admitted to be false; and although he has

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subsequently, both before the committing Authority and this Court, repudiated his confession, it is proved by the evidence of the witness Balkrushna (No. 10) to have been freely and voluntarily made, without cajoling or threatening, force or compulsion, and it is further corroborated by the evidence of the witnesses for the prosecution Govinda, Rama, Bajee, and Tookia (Nos. 6, 7, 8, and 9), the two former of whom refute the statement contained in his deposition of 3rd August 1854, that they went to his assistance, and found him insensible, and the two latter, his assertion in the same deposition, that they went on to inform the Patel, who sent a Mhar to tell him to go to Mohol, where the Koolkurnee was.

All that the prisoner can now say in his defence is, that he does not recollect whether the parties he accused of robbing him did so or not; that Bajee Patel persuaded him to retract his former statement, and that he and the two Koolkurnees have conspired against him; but in support of these assertions he does not call a single witness, and they are otherwise not be credited.

Such being the case, as no doubt can be held to exist either regarding the prisoner's evidence having been material to the matter in issue, or to the competence of the Authority before whom it was given, the Court considers the guilt of the prisoner to be fully proved; and he is accordingly convicted of perjury; in having, on Thursday the 3rd day of August 1854, (*corresponding* with Bruhusputwar, Shrawun Shood 9th, Shuké *1776,*) at Mohol, in the Talooka of that name, and Sholapore Zillah, before the Joint Police Officer of that Talooka, whilst giving evidence for the prosecution in the case of Myrala and Natajee, charged with highway robbery, wilfully made a false statement on solemn affirmation, to the effect that the said Myrala and Natajee, with two others, had robbed him on the road of property valued at Rs. 20-9-0.

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And after maturely considering the nature of the offence committed, the fact of the injurious nature of the perjury, and the punishment provided for the same by Clause 2nd, Section XVI. Regulation XIV. of 1827, the following sentence is passed :—

That you, Soma wulud Bhugwunta, be imprisoned with hard labour for six (6) months, and pay a fine of one hundred (100) rupees, or be further imprisoned and kept to hard labour for six (6) months.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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BROACH.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 6 of the Criminal Return of the Magistrate of Broach for September 1854. Tried by Mr. L. ASHBURNER, Acting First Assistant Magistrate, on the 27th September 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Robbery with Force, by Night; and Receiving Stolen Property, knowing it to be such.

Prisoners.—No. 1, Khoda Bechur, Kolee, aged 25.
2, Goolab Natha, Kolee, aged 20.

Charge.—Robbery with force, by night; in having, on the night of August 4th, 1854, (Shrawun Shood 13th, Sumvut 1910,) stolen from the house of Hureebai Narotum, in the village of Bajepore, brass and copper utensils, wearing apparel, and sundries, valued at Rs. 76-2-0, the property of the said Hureebai Narotum.

And prisoner No. 2 (Goolab Natha) is further charged with receiving stolen property, knowing it to be such, and without giving notice to the Authorities; prisoner No. 1 in having (September 3rd, 1854) had in his possession in his house in the village of Véhélum, in Jumboosur, one cooking utensil, value Rs. 2, well knowing that the same had been stolen from the house of Hureebai Narotum.

Prisoner No. 2 in having (September 3rd, 1854) had

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in his possession in his house in the village of Véhélum, in Jumboosur, two cooking utensils, value Rs. 1-8-0, well knowing that the same had been stolen from the house of Hureebai Narotum. (Regulation XIV. of 1827, Section XLI.)

Prisoners plead not guilty.

Finding and Sentence by the Acting First Assistant Magistrate.—Prisoners are guilty of receiving stolen property, knowing it to be such, and without giving information to the Police. On the first charge prisoners must be discharged. The offence was committed in the Baroda territory, and sanction has not been obtained for their trial. I was unaware, when I framed the charge, that the offence had been committed in foreign territory. The evidence requires no remark: it appears conclusive of the prisoners' guilt on the second count.

Prisoners are sentenced to imprisonment with hard labour for eleven (11) months, and for one (1) on conjee diet. (Regulation XIV. of 1827, Section XLI.)

Confirmation by the Magistrate.—Confirmed; but the attention of the Acting First Assistant Magistrate is again directed to the instructions contained in the extract from the proceedings of the Sudder Foujdaree Adawlut, dated the 25th May last.

Proceedings Reviewed by the Session Judge.—In this case the article alleged to be stolen, and sworn to belong to the complainant by two witnesses, is also recognized as the petitioner's (prisoner No. 1) by two witnesses, one of whom was called for the prosecution. The petitioner alleges that complainant, after having positively denied that any article found in his house belonged to him, subsequently deposed that the 'wadka' was his.

If this assertion is true, which cannot be ascertained from the record, this prisoner should, in the Session Judge's opinion, be acquitted. The Session Judge therefore requests the Magistrate's report on this point;

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and, if the prisoner's statement is true, his opinion on the view now set forth of the case.

Letter No. 1750, *from the Session Judge to the Magistrate.*—Herewith you will receive the papers and proceedings certified by you on the 29th ultimo, in the case of Khoda Bechur, together with an extract from my proceedings, with the exigence of which you will be pleased to comply.

Letter from the Magistrate to the Session Judge.—With reference to your letter No. 1750, dated the 11th instant, I have the honour to inform you that the Police Amuldar reports that he has no recollection of the complainant having ever said that the articles did not belong to him, and I am not myself of opinion that the prisoner ought to be acquitted.

The whole of the papers relating to the case are herewith returned.

Decision of the Acting Session Judge.—The Court having perused the proceedings, determines to refer this case to the Sudder Foujdaree Adawlut, under the provisions of Regulation VIII. of 1831, Section III. Clause 3rd, as per letter to the Registrar No. 1878, of this day's date.

Letter from the Acting Session Judge to the Sudder Foujdaree Adawlut.—Under the provisions of Regulation VIII. of 1831, Section III. Clause 3rd, I have the honour to submit, for the consideration and orders of the Judges of the Sudder Foujdaree Adawlut, copy of a correspondence between my predecessor and the Magistrate of Broach, connected with a prisoner (Khora Bechur) convicted by the Acting First Assistant Magistrate of receiving stolen property, knowing it to be such, without giving information to the Police.

I do not distinctly gather from my predecessor's proceedings what he would have done consequent on the answer received from the Magistrate of Broach; but my own opinion is, that whether what the prisoner has

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advanced in his petition of appeal be true or false, the evidence against him is by no means conclusive—on the contrary, that it is utterly insufficient to warrant his conviction. I therefore think the finding and sentence should be annulled, and the prisoner discharged.

Resolution of the Sudder Foujdaree Adawlut.—The Court concur with the Session Judge's recommendation in favour of Khora Bechur, and this prisoner is to be discharged.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

KAIRA.

[Case No. 4 of the Criminal Return of the Magistrate of Kaira for September 1854. Tried by Mr. J. E. OLIPHANT, Acting First Assistant Magistrate, on the 7th September 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Theft.

Prisoner.—Alum Humja, Mussulman, aged 20.

Charge.—Theft (Regulation XIV. of 1827, Section XXXIX.); in having, on the 27th August 1854, (corresponding with Bhadrupud Shood 4th, Sumvut 1910,) in the limits of Kusba Borsud, Talooka Borsud, Zillah Kaira, secretly abstracted from a bundle (which had been entrusted to his charge in his capacity of 'Wulawa' or escort), containing miscellaneous articles, of the prosecutrix, one silver 'hanslee' or necklace, of the value of Rs. 12 or thereabouts, with intent to appropriate the same, and deprive one Jeewee, woman, the lawful owner of the same.

Finding and Sentence by the Acting First Assistant Magistrate.—The prisoner is accused of theft, as above narrated, and pleads not guilty.

The prisoner, however, admits having abstracted the hanslee or necklace from the bundle of prosecutrix after his arrival at Borsud, in advance of the prosecutrix and her male companion, with whom he had travelled

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from Baroda in the capacity of Wulawa or escort. The only question, therefore, that remains for consideration is, did he take it with intent to steal? His plea is that he took it from the bundle and buried it in the earth, for the sake of security, as the prosecutrix had asked him to take good care of it; that as they were a long time in coming up, he went to ease himself, forgetting to take up the hanslee from where he had buried it. This line of defence is ingenious, but most improbable, and is, in the Assistant Magistrate's opinion, unworthy of the smallest credit. The best way of securing the hanslee would have been to leave it in the bundle, and keep the latter in his own possession.

The Assistant Magistrate therefore convicts the prisoner of the above charge; and considering the circumstances under which he committed the theft, awards the highest amount of punishment authorised by Regulation. The convict Alum Humja is to be imprisoned for six (6) months, during the first five of which he is to be kept to hard labour, and during the last on conjee diet, without labour. At the expiration of this sentence, and before release, he is to receive twenty-five (25) stripes with the cat-o'-nine-tails. (Regulation XIV. of 1827, Section XXXIX.)

* * * * * * *

N. B.—As the convict was on security for good conduct when he committed the theft of which he has just been convicted, the Assistant Magistrate orders that he be forwarded to him at the expiration of sentence, in order that precautionary measures may be taken for his future good conduct.

Resolution of the Sudder Foujdaree Adawlut.—The flogging is to be remitted.

The Court object to flogging just before release from jail, and think that some other period should always be fixed for its infliction.

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AHMEDABAD.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 83 of the Calendar of the Ahmedabad Sessions Court for 1854. Committed by Mr. H. B. LINDSAY, Third Assistant Magistrate, on the 29th August 1854. Tried by Mr. C. WALTER, Acting Assistant Session Judge, on the 16th, 18th, 19th, 20th, and 21st September 1854. Reviewed by Mr. H. HEBBERT, Session Judge, on the 27th September 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Bapoo Madowdas.]

Robbery with Force, by Day; and knowingly Receiving Stolen Property, having evident grounds for supposing it to be such, and without giving Notice to the Authorities.

Prisoners.—No. 1, Masook Himutram, Wania, aged 24.
2, Munsook Kandas, Wania, aged 28.
3, Bapoo Madowdas, Wania, aged 25.
4, Chugun Moolchund, Wania, aged 32.

Charge.—Robbery with force, by day; in that, on the 2nd Shrawun Wud, Sumvut 1910, (corresponding with 10th August 1854,) they, by scaling a partition wall, entered the premises of prosecutor Motee Jetha, in the Pukhalee Pol of Ahmedabad, opened the door of the front room, which was locked, and stole from a box in the inner room, which was also locked, jewels to the value of Rs. 436, or thereabouts.

Prisoners Nos. 1, 2, and 3 are further charged with knowingly receiving stolen property, having evident grounds for supposing it to be such, and without giving notice to the Authorities; in that, on the morning succeeding the robbery, a necklace worth Rs. 150, an armlet worth Rs. 50, and a bit of gilt wire worth Rs. 2, being portions of the above stolen property, were pointed out to the Police by prisoner No. 1, concealed in a recess in the upper story of his house, immediately after which prisoner No. 2 disclosed to the Police two bracelets

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worth Rs. 46, further portions of the stolen property, buried on the road to Shapoor; and in that, on the night of the robbery itself, prisoner No. 3 gave over to the Police an armlet worth Rs. 20, a further portion of the stolen property, from out of a 'mutka' in his house, which he had received, having evident grounds for supposing it to be stolen.

Finding and Sentence by the Acting Assistant Session Judge.—The prisoners have all been charged with robbery, with force; and prisoners Nos. 1, 2, and 3 have been further charged in a second count with knowingly receiving portions of the stolen property. The prisoners have pleaded not guilty before the Court to both counts, as they also did before the Third Assistant Magistrate. The complainant deposes that the stolen property consisted of jewels, which were in a locked box in the inner room of his house, and that he, on the day of the robbery, went with all his household to his temple to worship, and remained absent the whole day; that on his departure his jewels were all safe, and that he locked the entrance door, as well as that of the front room of his house, and gave over the keys to a neighbour, whose evidence has been recorded for the prosecution as No. 6. On his return, he discovered his loss, and his suspicions at once fell on his late Gomashta Masook (prisoner No. 1), whom he had had reason to discharge two months previously. The complainant's house is in the Pukhalee Pol, and the 'chok' in which it is situated is common to two houses, which, however, are separated by a partition wall about 6 or 7 feet high, which entirely divides on two sides the one house from the other, and, with the wall towards the main road, and the side-wall of the neighbour Kaleedas' house, forms a square space, entirely distinct from the complainant's premises. There are two entrances to the chok from the main road, one used by Kaleedas, which opens into the square space above

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described, and the other is the complainant's entrance door. The Court has satisfied itself regarding these details by personal inspection. The entrance door to the complainant's premises being locked, the only way for an entry to be effected was through that door from the main road, which looked into Kaleedas' square; and when this was closed after them, the intruders would be entirely screened from view, and if no one was inside Kaleedas' square, the wall could be surmounted without observation; and when once over the wall, and inside the complainant's premises, there was no dread of interruption. This justified the complainant's assuming that the robbery must have been managed by some one acquainted with the premises, and strengthened his suspicions against Masook (prisoner No. 1), which he communicated to the Foujdar. The way in which the Foujdar set about his inquiries, and the manner in which the prisoners were all four apprehended, and the property recovered, have been so fully detailed by the Sepoys (witnesses Nos. 13 and 14), by the complainant, and by his friends (witnesses Nos. 10 and 15), that it would be useless here to recapitulate their evidence, which leaves no manner of doubt that the prisoners Nos. 1, 3, and 4, after some demur, all admitted their guilt, and gave information to the Police as to where their shares in the property were; also that prisoner No. 2, though denying his share in the robbery, showed the Police where a portion of the stolen property had been placed, not by himself, but by Masook. With regard to the jewels which were thus recovered, the complainant has for the most part given the most satisfactory proof before the Court that they are his own; where they have been recently made, there is the evidence of the person who made them, as also of the person from whom the gold was bought. The remainder, being old family jewels, there is no evidence concerning them, further than

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the positive identification of them by the complainant's friends. After they had given up the property, the prisoners' confessions were taken down; and it is to be remarked that this was done in the open Pol, before numbers of people, so that there was no opportunity for any intimidation or undue influence being used. These confessions (at least those of prisoners Nos. 1 and 4) are in the fullest detail, and bear on their face the impress of truth. The share of the spoil awarded to each is mentioned, there is a succinct account of every circumstance previous to, attending, and subsequent to the robbery; and reasons are assigned for the difference in the value of the shares, which were estimated according to the risk incurred in the affair by each person. The attesting witnesses (Nos. 10, 21, 22, 23, and 24) have satisfactorily proved that these confessions were voluntarily made, and the Court has not the least hesitation in acting on them both. With regard, however, to the confession of Bapoo (prisoner No. 3), it is not explicit to his having been actively engaged in the robbery. He was not one of those who originally planned the robbery, and from the first he only pleaded guilty to having sat down and waited at a distance, while the other persons robbed a house, and to having afterwards received one of the stolen jewels. He added, too, that he did not know what house they had robbed. There is further to be said with regard to this confession, that the prisoner now urges that it was given by him under a promise of immunity, in which assertion he was originally supported by the complainant at the commencement of his deposition; and though there is no reason to suppose that any promise of pardon was offered him, yet he may possibly have been indirectly induced to suppose that he would be dealt with leniently if he disclosed all he knew. For the above reasons, the Court, although it has recorded

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this confession for the prosecution, would not rely on it for a conviction. Witnesses Nos. 10, 13, and 15 have, however, clearly proved that he handed over to the Police an armlet of the value of Rs. 20, immediately after his admissions, so it is clear that he was guiltily in possession of that portion of the stolen property on the night immediately succeeding the day of the robbery. With regard to prisoner No. 4, one armlet which he, after confessing, disclosed in Nuthoo's house, is the one jewel of the whole number with regard to the identity of which the least evidence has been adduced by the prosecution; but the complainant's friends positively recognize it, and in the absence of any proof to the contrary, sufficiently establish that it is his. If satisfactory proof had been adduced in defence that the jewel was in fact Nuthoo's, there would have been a question whether Nuthoo's confession, however ample, was sufficient for conviction, since the corroboration afforded to it by the disclosure of a portion of the stolen property would have fallen to the ground. The Court, seeing the importance of this to the prisoner's cause, asked him most particularly whether he could produce any evidence on the point, which he, however, declined to do. The Court is in its own mind equally satisfied of the guilt of prisoner No. 2, but the evidence against him does not unfortunately legally suffice for conviction, since he did not originally confess his guilt, nor did he admit that the jewels which he disclosed were buried by himself, or had ever been in his charge. He only admitted that he had seen Masook bring them there, and was therefore able to point them out. The gravest suspicion, however, attaches to him. It occurred to the Court in the course of the trial, that it was extraordinary that the prisoners could have been lurking about the Pukhalee Pol for some hours of the day of the robbery, without any one having observed them. The point was noticed to the City Foujdar (who

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had been sent up by the Assistant Magistrate to watch the proceedings, and was therefore kept at hand). He said that he had not previously directed inquiries that way, but promised to do so, and in consequence three witnesses were produced by him next day. These are those whose evidence has been recorded as Nos. 17, 18, and 20, who prove that all the prisoners were together in the neighbourhood of complainant's Pol about the time when the robbery occurred, while witness No. 17 saw them all four enter the Pol, and saw prisoner No. 1 enter the neighbour Kaleedas's house, whence the entry was effected. Though this evidence is not in itself conclusive of guilt, yet it is exceedingly satisfactory, when taken together with the confessions, and affords any further corroboration to them which could posssibly be required.

The defence of prisoner No. 1 is not tenable, inasmuch as he, having been Gomashta in complainant's house, must, if Kaleedas had really brought him the jewels, have at once recognised them as belonging to his own master. Besides, Kaleedas (whose evidence has been recorded No. 12 for the prosecution) denies the assertion, and no evidence is adduced to establish it; neither have prisoners Nos. 3 and 4 advanced any in support of their present statements; and lastly, they are all at variance one with another, nor can the least credit be attached to them.

The prisoners Nos. 1 and 4 are therefore found guilty of robbery, with force, by day; in that, on the 10th August 1854, they, by scaling a partition wall, entered the premises of prosecutor Motee Jetha, in the Pukhalee Pol of Ahmedabad, opened the door of the front room, which was locked, and stole from a box in the inner room, which was also locked, jewels to the value of Rs. 436, or thereabouts. Prisoner No. 3 is found guilty of knowingly receiving a portion of the above stolen property;

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in that, on the night of the robbery itself, he gave over to the Police an armlet worth Rs. 20, a portion of the above said stolen property, from out of a mutka in his house, which armlet he had received, having evident grounds for supposing it to be stolen. The Court having found the prisoners Nos. 1, 3, and 4 guilty as above, and after considering the daring nature of the offence committed, and the punishment provided therefor in Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section XLI., and having further kept in view, as far as possible, the relative guilt of each of the prisoners, proceeds to pass the following sentence:—

That you, Masook Himutram (prisoner No. 1), do suffer imprisonment for two and a quarter ($2\frac{1}{4}$) years, the first two (2) years with hard labour, and the last three (3) months in solitary confinement. That you, Bapoo Madowdas (prisoner No. 3), do suffer imprisonment with hard labour for the period of one (1) year, and that you, Chugun Moolchund (prisoner No. 4), do suffer imprisonment with hard labour for the space of two (2) years. Further that you, prisoners Nos. 1, 3, and 4 be, at the expiration of your sentence, returned to the Magistrate for precautionary measures.

Prisoner No. 2 (Munsook Kandas) is acquitted; but on account of the grave suspicion attaching to him, he is to be remanded to the Magistrate for precautionary measures.

The sentence passed on prisoner No. 1 being greater in extent than the Court is authorised to adjudge without confirmation, the papers and proceedings are to be submitted to the Session Judge.

Before closing the case, the Court would notice the very active and successful way in which the preliminary investigation into this case has been conducted by the Acting Foujdar, owing to which, from very small premises the perpetrators of this daring robbery have

been discovered, and the whole of the stolen property recovered.

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Reviewed by the Session Judge on Appeal.—Having attentively perused the proceedings of the Acting Assistant Session Judge, the Court sees no reason to interfere with either the conviction or sentence of any of the prisoners.

* * * * *

The Court quite coincides in the remark of the Acting Assistant Session Judge, commending the activity and energy of the Acting Foujdar in tracing out the perpetrators of this robbery; and, moreover, considers credit is due to the Acting Assistant Session Judge himself for the pains and trouble he has obviously taken in investigating this case.

Resolution of the Sudder Foujdaree Adawlut.—The Court see no cause to interfere.

The Court concur with the Session Judge's appreciation of the manner in which his Assistant has tried the case, and the energy and tact displayed by the Police.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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TANNA.

[Case No. 108 of the Calendar of the Konkun Sessions Court for 1854. Committed by Mr. T. C. HOPE, Third Assistant Magistrate, on the 5th December 1854. Tried by Mr. R. KEAYS, Session Judge, on the 13th December 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Perjury.

Prisoner.—Ambaeedas Oodhowjee, Bhungalee, aged 19.

Charge.—Perjury; in having, on the 22nd June 1854, (corresponding with Jésht Wud 12th, Shuké 1776,) in his shop, in the village of Caranjah, Talooka Salsette, Zillah Tanna, in the presence of the Assistant Magistrate of Tanna, deposed on solemn affirmation, that "after full reflection he affirmed that Davidas never on any

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occasion took the ferry fares" ; and, moreover, that " his shop Karkoon, Bhugwan Méraj, never took them" ; which two statements he knew to be totally false, and which were made in the hope of screening his brother Davidas and his Karkoon Bhugwan Méraj from conviction and punishment for having illegally levied a toll from one Rowjee Narayen, who was proceeding in his privately hired boat from Nagotna to Bombay. (Regulation XIV. Section XVI. Clause 1st of 1827.)

The prisoner pleads not guilty.

Finding and Sentence by the Session Judge.—The prisoner in this case is accused of wilful perjury, in the instance set forth in the charge.

It is clearly proved that Davidas is the person who always, in the absence of the Muktadar, collected the ferry fares at Caranjah. In his absence, it is proved that the prisoner at the bar is the person to whom this duty is entrusted. There was a complaint against Davidas of having levied an illegal fare from one Rowjee Narayen. In that inquiry the deposition of the prisoner Ambaeedas was taken, in which he stated that Davidas never on any occasion took the ferry fees. This is proved to be false ; and as it was obviously given to screen his brother from a conviction, and was given in a judicial inquiry, and on solemn affirmation, as admitted by prisoner himself, the crime of perjury is complete. The prisoner is therefore convicted of perjury ; in having, on the 22nd June 1854, (corresponding with Jésht Wud 12th, Shuké 1776,) in his shop in the village of Caranjah, Talooka Salsette, Zillah Tanna, in the presence of the Assistant Magistrate of Tanna, deposed on solemn affirmation, that "after full reflection he affirmed that Davidas never on any occasion took the ferry fares" ; and, moreover, that "his shop Karkoon, Bhugwan Méraj, never took them" ; which two statements he knew to be totally false, and which were made

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in the hope of screening his brother Davidas and his Karkoon Bhugwan Méraj from conviction and punishment for having illegally levied a toll from one Rowjee Narayen, who was proceeding in his privately hired boat from Nagotna to Bombay.

Having duly considered the nature of the offence proved against the prisoner, and the amount of punishment allowed for the same by the Regulations, the Court passes the following sentence:—

That you, prisoner Ambaeedas Oodhowjee, do pay a fine of two hundred (200) rupees, commutable to four (4) months' ordinary imprisonment. (Regulation XIV. of 1827, Section XVI. Clause 2nd.)

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Session Judge is to be requested to state whether the imprisonment in commutation was with or without labour.*

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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TANNA.

[Case No. 109 of the Calendar of the Konkun Sessions Court for 1854. Committed by Mr. T. C. HOPE, Third Assistant Magistrate, on the 5th December 1854. Tried by Mr. R. KEAYS, Session Judge, on the 13th December 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Perjury.

Prisoner.—Bhugwan Méraj, Goozoor, aged 35.

Charge.—Perjury; in having, on the 19th June 1854, (corresponding with Jésht Wud 9th, Shuké 1776,) in

* *Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.*—With reference to the extract from the Court's proceedings which accompanied this Precept, the Judge of the Konkun has the honour to state that the imprisonment in commutation of fine was without labour. It will be duly specified in all future sentences, as it ought to have been in the present case.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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the Collector's Kutcherry on the hill of Oorun, Talooka Salsette, Zillah Tanna, in the presence of the Assistant Magistrate of Tanna, deposed on solemn affirmation that he had never gone on the part of the contractor or his security to collect the ferry fares, and had not on the 19th May, in particular, reckoned up the fare to be taken from one Rowjee Narayen ; and moreover, that the contractor himself kept the accounts ; and in the absence of the contractor or his security he did not know who collected the fares and credited the money ; all of which statements he knew to be totally false, and which were made in the hope of screening himself and his employer Davidas Oodhowjee from conviction and punishment, for having illegally levied a toll from one Rowjee Narayen, who was proceeding in his privately hired boat from Nagotna to Bombay. (Regulation XIV. A. D. 1827, Section XVI. Clause 1st.)

The prisoner pleads not guilty.

Finding and Sentence by the Session Judge.—In this case the prisoner is accused of perjury ; in having, on the date specified in the charge, stated before the Assistant Magistrate, Mr. Hope, as follows :—

1*st.*—That he had never gone on the part of the contractor or his security Davidas to collect the ferry fares ;

2*nd.*—That he had not on 19th May reckoned up the fare to be taken from Rowjee Narayen and others ;

3*rd.*—That the contractor himself keeps the ferry accounts ; and

4*th.*—That in the absence of the contractor or his security, he did not know who collected the fares and credited the money.

All of which statements he knew to be false.

The only one of these points which the Court considers to be satisfactorily proved is the last. The prisoner is Davidas' factor, and, from his position, must

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not only have been perfectly conversant, not only with Davidas' accounts, but all the details regarding the ferry, as it is proved that he himself sometimes writes entries regarding it. That when the prisoner stated that he did not know who, in the absence of the contractor or his security Davidas, collected the fares and credited the money, he must have stated what was in his own knowledge perfectly false; and as this statement was given in a judicial inquiry, to ascertain whether the prisoner's master Davidas had made an illegal levy of a fare from Rowjee Narayen, and obviously to screen Davidas, and defeat the ends of justice, the Court passes the following sentence:—

That you, prisoner Bhugwan Méraj, do pay a fine of fifty (50) rupees, commutable to one (1) month's imprisonment. (Regulation XIV. of 1827, Sect. XVI. Clause 2nd.)

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Session Judge is to be requested to state whether the imprisonment in commutation was with or without labour.*

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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RUTNAGHERRY.

Receiving Property, having evident grounds for supposing it to be Fraudulently Withheld from its Owner.

[Case No. 3 of the Criminal Return of the Magistrate of Rutnagherry for September 1854. Tried by Mr. G. SCOTT, First Assistant Magistrate, on the 1st September 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Prisoner.—Dadshet bin Madshet Khade, Wanee, aged 49.

* *Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.*—[The same as in the preceding Case.]

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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Charge.—Receiving property, having evident grounds for supposing it to be fraudulently withheld from its owner (Regulation XIV. Section XLI. Clause 1st of 1827); seeing that he, the aforenamed prisoner, did, some time during the day of June 27th, 1854, (corresponding with Ashad Shood 2nd, Shuké 1776,) at his house, in the village of Wagotun, receive from one Balajee Gunesh Kalé, or else one Venkut bin Subabhut, three gold rings, value Rs. 25-13-0, having, at the time, evident grounds for supposing the said rings to be fraudulently withheld from their owner, giving in exchange Rs. 8, which rings are the property of the complainant Bhayabaee, widow of Una Kanitkur, inhabitant of Wagotun, from whom they were fraudulently withheld.

The prisoner pleads not guilty.

Finding and Sentence by the First Assistant Magistrate.—The prisoner acknowledges having taken the rings from Kalé, and given him Rs. 8 for them, Rs. 3 of which Rs. 8 prisoner says he saw Kalé give to a Bhut.

That the rings were fraudulently withheld from their owner has been proved beyond a doubt in another case, an extract from which is recorded; and, moreover, the complainant's statement is sufficient as to that, the prisoner having acknowledged that he took the rings, &c. The only point to be decided is whether he had reason to suspect that the rings he received were dishonestly come by? The man Kalé, from whom prisoner received the rings, is a shopkeeper, and well to do: this the prisoner must have known. Now it seems from the prisoner's own statement that he (Kalé) only wanted Rs. 3 to give to the Bhut. Why should he have given Rs. 3 to a beggar, and why should he bring a beggar with him when he pawned the rings? Why have placed three rings in pawn when one would have realized the

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amount he required? The Assistant Magistrate considers there were the most evident grounds for supposing that the rings had been dishonestly come by, and that the hopes of a great profit induced the prisoner to knowingly receive the rings.' You, the prisoner Dadshet Mhadshet Khade, are found guilty, and sentenced to pay a fine of fifty (50) rupees, or in default to be imprisoned with labour for the space of three (3) months from this date. (Regulation XIV. Sect. XLI. Clause 1st of 1827.)

Reviewed by the Magistrate on Appeal.—The sentence passed by the First Assistant Magistrate is confirmed by the Magistrate.

Minute recorded by Mr. A. Remington.—If the man Kalé, from whom the prisoner received the rings, is, as stated by the Assistant Magistrate in his finding, a man of substance, that fact was sufficient to disarm his suspicion; and another individual being present, the transaction, as respected the prisoner, was open and undisguised; and he made no mystery about the matter when asked by the Police.

I do not think the conviction should be upheld.

Mr. Larken would reject the petition.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge.

Mr. Harrison concurred with Mr. Larken in rejecting the petition.

Final Resolution of the Sudder Foujdaree Adawlut.—Petition rejected.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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BROACH.

[Case No. 12 of the Criminal Return of the Magistrate of Broach for October 1854. Tried by Rao Bahadoor RUNCHORDBHAEE OOMYASUNKER, District Deputy Magistrate, on the 13th October 1854. Reviewed by Mr. W. H. HARRISON, Session Judge

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of Surat, on the 16th December 1854. Proceedings submitted for the consideration and orders of the Sudder Foujdaree Adawlut, under the provisions of Regulation VIII. of 1831, Section III. Clause 3rd.]

Prisoner.—Bechur Narun, Koonbee, aged 25.

Charge.—Robbery by day, with force, of above Rs. 50; and also receiving stolen property, knowing it to be such, without giving information to any Government Authorities. (Regulation XIV. of 1827, Sect. XXXVII. Clause 3rd, and Section XLI. Clause 1st.)

Finding and Sentence by the District Deputy Magistrate.—Convicted of the second count, and sentenced to six (6) months' imprisonment, with hard labour. (Regulation XIV. of 1827, Section XLI.)

Confirmed by the Magistrate on the 24th October 1854.

Reveiwed by the Session Judge.—In this case, the prisoner, who is deaf and dumb, is concluded to have exhibited by signs his knowledge that a silver waist-belt ('kundora'), found concealed in the wall of his house, is the property of the complainant, his neighbour, who also gives him a bad character. On this the conviction seems to rest.

The prisoner, on the Session Judge visiting the Jail when on Circuit, by signs indicated his protest against being in confinement, and a petition is presented in his name, which is not, however, to be supposed to be written at his dictation.

Without entering into the question of the criminal responsibility of a deaf mute, a disputed one in countries where such persons can be to some extent educated, it appears to the Session Judge that in this case the prisoner has had no opportunity of answering the charge preferred against him. The essence of the crime is the guilty knowledge, which cannot be assumed, while the accused can give no explanation; nor his bad

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character, either from the complainant's statement alone, which is all the Deputy Magistrate has recorded upon the subject.

On this view the Session Judge considers that the prisoner should be released, and refers the opinion to the Magistrate of Broach for his observations, before recommending to the Sudder Foujdaree Adawlut that the sentence be annulled.

Letter from the Magistrate to the Acting Session Judge.—With reference to Mr. Harrison's letter No. 1792, dated the 18th instant, I have now the honour to forward for your inspection the accompanying report from the Police Amuldar of Unklesur, relating to the deaf and dumb prisoner named Bechur Narun; and as it will be seen from that report that the said prisoner resides alone in the house in which the stolen property was found, that he does everything for himself, and that he was, moreover, in the habit of gaining his livelihood by labour, I am not myself of opinion that he ought to be released from confinement for the reasons specified in the extract from the proceedings of the Session Judge.

The papers and proceedings are herewith returned.

Reviewed by the Acting Session Judge.—The Court determines to refer this case to the Sudder Foujdaree Adawlut, under the provisions of Regulation VIII. of 1831, Section III. Clause 3rd, as per letter to the Registrar No. 16, of this day's date.

Letter from the Acting Session Judge to the Sudder Foujdaree Adawlut.—Under the provisions of Regulation VIII. of 1831, Sect. III. Clause 3rd, I have the honour to submit, for the consideration and orders of the Judges of the Sudder Foujdaree Adawlut, copy of a correspondence between my predecessor and the Magistrate of Broach, connected with a prisoner (Bechur Narun) convicted by the District Deputy Magistrate of Broach

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of receiving stolen property, knowing it to be such, without giving information to the Police.

Minute recorded by Mr. A. Remington.—The criminal responsibility of a person found to be mute by the act of God, should not, I think, be questioned. In that case, the trying Authority must inquire into all matters which might have been pleaded in defence, and afterwards proceed to judgment.

Here, as it is supposed the prisoner was without the opportunity of explanation, the conviction ought to be annulled, as proposed by the Session Judge.

Minute recorded by Mr. M. Larken.—There being nothing on record to show that the prisoner was capable of defending himself against the accusation, I incline to the opinion of the Session Judge; for though the report of the Police Amuldar may preclude the presumption of law that the prisoner is an idiot, I think the special charge cannot be sustained against him, and I would annul the conviction and sentence.

Resolution of the Sudder Foujdaree Adawlut.—The criminal responsibility of the prisoner not having been subjected to inquiry, the Court are of opinion that the conviction is unsound; and it is, with the sentence, annulled, and the prisoner is to be discharged.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

AHMEDNUGGUR.

[Case No. 70 of the Calendar of the Ahmednuggur Sessions Court for 1854. Committed by Mr. C. G. KEMBALL, Second Assistant Magistrate, on the 24th October 1854. Tried by Mr. H. B. LOCKETT, Assistant Session Judge, on the 21st, 27th, 28th, 29th, and 30th November 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Administering a Stupifying Drug; and Robbery by Night, with Force.

Prisoner.—Luxumun Gooroo Sumbhoo Bharthee, Koonbee, aged 45.

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Administering a Stupifying Drug; and Robbery by Night, with Force.

Charge.—Under Act XXIX. of 1850, with having, on the 22nd September 1854, (corresponding with 30th Bhadrupud Wud, Shuké 1776,) in the vicinity of the village of Jamgaum, Talooka Ankolé, Zillah Ahmednuggur, wilfully and maliciously administered to, or caused to be taken by, Hurya wulud Nimba and Bhika wulud Payajee, some stupifying or intoxicating drug (datura seed), to abet the commission of robbery on them.

In a second count, the prisoner is charged, under Regulation XIV. Section XXXVI. Clauses 1st and 3rd of 1827, with robbery by night, with force; in that, on the above-mentioned day, and at the above-mentioned place, he did steal from Hurya wulud Nimba and Bhika wulud Payajee some ornaments, of the estimated value of Rs. 26.

Finding and Sentence by the Assistant Session Judge.—The prisoner is arraigned under two indictments, one under Act XXIX. of 1850, Section I. charging him with wilfully administering pernicious drugs for unlawful purposes; the other under Regulation XIV. of 1827, Section XXXVI. Clauses 1st and 3rd, with robbery by night, with force.

To both these counts the prisoner pleads not guilty.

The Court proceeds to consider the evidence adduced in support of the first indictment. It appears that the prisoner (Luxumun), having acquired by some means a character for supernatural powers, ingratiated himself with the Mhar Bhika, by whom he was introduced to Hurya. He favourably introduced himself, by recovering some money which had been stolen from the latter, and at last agreed to remove the malady under which the former's wife was suffering. This, after some juggle, it was alleged could only be done by incantations in a certain spot. The jungle of Jamgaum was fixed upon; and thither, on or about the 22nd September

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1854, the two dupes (Bhika and Hurya) accompanied the prisoner. They were induced, it is said, to take each an ornament, on which money was to be raised, and they were further supplied with an abundance of food, as well as cooking dishes, plates, &c. The prisoner is accused of having introduced certain drugs into the food of the two Mhars, which produced utter insensibility.

The evidence of the two complainants has been given, on the whole, in a plain satisfactory manner. There is no reason to suppose that either of them is in the habit of indulging in intoxicating drinks or drugs, and the Court has not omitted to turn its attention to this possibility in taking down the evidence. It is obvious, from the evidence recorded, which in the present instance it is unnecessary to repeat in detail, that both the men were discovered in a state bordering on insanity, with no command over their words and behaviour, and with occasional fits of insensibility. Their story is corroborated by the evidence of the witnesses Peelajee (No. 11) and Yeshia (No. 12), who depose to having found the remains of a feast upon the ground, a fire still alive, and also a 'mutka' or earthen pot. The evidence of the woman Thukawoo (witness No. 8), in whose house the vessels produced in Court were found, has been given in a way which shows her to have been rather one of the prisoner's dupes than accomplices, and the Court fully credits her simple statement. The confession of the prisoner has been, in the opinion of the Court, fully and satisfactorily proved; and it has, moreover, transpired from the evidence of the witness Mahomed Ali (No. 16), that the prisoner Luxumun has been in the habit of producing insensibility in his own person by the very drug which he confesses to have used towards the complainants Hurya and Bhika. To admit further doubts would be to torture ingenuity to find

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possible excuses for the prisoner; and the Court, after maturely considering the evidence, holds that the charge embraced in the first indictment has been fully proved against the prisoner. Luxumun is accordingly convicted under Act XXIX. of 1850, Section I. of wilfully administering pernicious drugs; in having, on the 22nd September 1854, (corresponding with 30th Bhadrupud Wud, Shuké 1776,) in the vicinity of the village of Jamgaum, Talooka Akolé, Zillah Ahmednuggur, wilfully and maliciously administered to, or caused to be taken by, Hurya wulud Nimba and Bhika wulud Payajee, some stupifying or intoxicating drug (datura seed), to abet the commisson of robbery on them.

The Court has now to consider the evidence in favour of the second indictment, viz. robbery by night, with force.

The evidence here, though by no means so direct, appears to the Court sufficiently circumstantial to convict the prisoner of the charge. If it has been proved that he (Luxumun) administered a stupifying drug to the two men Hurya and Bhika, we are naturally led to the conclusion that it was done for unlawful purposes. Now, in the absence of any other motive presenting itself, we are perforce led to believe that the object was robbery. The Court has therefore (not forgetting the prisoner's confession on this head before the Magisterial Authorities) to inquire *whether the two men were ever actually in possession of the armlet and chain alleged to have been stolen.* The evidence in favour of a chain having belonged to Bhika and his family appears to the Court satisfactory.

There is no hesitation or prevarication in the depositions of the witnesses Shiwa and Khundoo (Nos. 13 and 14), who agree it was left to Bhika by his father. The story about Hurya having purchased the silver chain some three years before from Khundoo wulud Buhirao is certainly a suspicious one, and the evidence in support of this

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statement is far from satisfactory. It is only, however, on the *manner* that the ornament came originally into Hurya's possession that the Court entertains any doubts. That Hurya really had it on his arm when he accompanied the prisoner and Bhika, the Court holds most probable, if the depositions of Khundoo and Bhika may at all be relied upon; and the doubts which the suspicious nature of the evidence on this head naturally give rise to are dispelled by the voluntary and attested confession of the prisoner, and the evidence of Thukawoo and Bala (witnesses Nos. 8 and 7), who noticed a silver chain upon his arm when he brought the copper and brass vessels to the former's house.

But where the prisoner's statement in one place is taken, it must be received equally in another. The prisoner acknowledges before the Subedar, then the Police Amuldar, and finally the second Assistant Magistrate, that he stole the two ornaments from the complainants Hurya and Bhika; but he persists that the vessels produced in Court belong to him. The Court holds, therefore, that the complainant Bhika has failed to prove these vessels to be his private property.

The prisoner is convicted, therefore, of robbery by night, with force; in that, on the 22nd September 1854, (corresponding with 30th Bhadrupud Wud, Shuké 1776,) in the vicinity of the village of Jamgaum, Talooka Akolé, Zillah Ahmednuggur, he did steal from Hurya wulud Nimba and Bhika wulud Payajee, some ornaments, of the estimated value of Rs. 26.

The Court has now to determine the punishment called for in offences so grave.

The deposition of the Civil Surgeon would have materially assisted the Assistant Session Judge in determining this point; but owing to the temporary indisposition of that Officer, this has been impossible. He (the Civil Surgeon), in reply to a letter from the Assistant

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AHMEDNUGGUR.

Administering a Stupifying Drug; and Robbery by Night, with Force.

Session Judge, has recorded his official opinion that the datura seed is a most dangerous narcotic acrid poison, causing intoxicating and other symptoms, tending to death, and that its influence frequently lasts several days; but as the Court has no power to admit a written opinion as legal evidence, it is unable to place this document on the records. There can be no doubt, however, that the crimes of which the prisoner has been found guilty are most serious ones, and should be most severely punished, when detected. It determines, therefore, to award the heaviest penalty in its power, without referring to the Session Judge, absent on duty, viz. two (2) years' imprisonment with hard labour, and to receive thirty (30) lashes of the cat-o'-nine-tails on his bare back, fifteen (15) of which he is to receive at the close of the first month of his imprisonment, and the remaining fifteen (15) at the end of the next month of his imprisonment.

Resolution of the Sudder Foujdaree Adawlut.—The proceedings in this case were sent for because the Act quoted does not apply to Sessions Courts.

The prisoner was also convicted of robbery under the Regulations, and it is only necessary to point out the Assistant Session Judge's error in arraigning him on the first count, and the omission to quote the Regulation when awarding sentence.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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DHARWAR.

[Case No. 142 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. J. M. STEWART, Acting First Assistant Magistrate, on the 27th November 1854. Tried by Mr. A. W. JONES, Session Judge, on the 23rd and 26th December 1854. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Tima bin Hunma, Bedur, aged 45.

Murder.

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DHARWAR.

Murder.

Charge.—Murder (Regulation XIV. Section XXVI. Clause 1st of 1827); in having, in the village of Koosoogul, in the Hooblee Talooka of the Dharwar Division and Zillah, and in the night of Tuesday the 21st November 1854, (corresponding with Margsheersh Shood 1st, Shuké 1776,) purposely, and without justifiable cause, deprived of life his wife Busee, by stabbing her with a knife, so that she died.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and pleads guilty.

It appears that in the night of the 21st November a man came to the Chowree of the village of Koosoogul, and, saying he had something to show, took the Police Patel and Tulatees to a house, where they found the body of a woman recently murdered. The man then acknowledged that this woman was his wife, and this man was the prisoner, who has made a full statement of the circumstances of the crime, and has adhered to it, both before the Assistant Magistrate and the Court.

The statement is to the effect that he had come from a village of the Madras Presidency with his family and friends about a year ago, and had settled at Koosoogul; but hearing that rain had fallen, and that it was therefore possible to live in his native village again, his friends determined to return, and he urged his wife to do so too; but she refused, and declared she would not leave Koosoogul, as she preferred remaining, to carry on an intrigue with two men with whom she was intimate. He says he pressed her to go several times, and that the last time he did so was in the middle of the night of the 21st November, when, on her repeating her refusal, he took up a dagger which was lying in the room, and stabbed her with it till she died, and then, taking up the body, he carried it to the door of the house where one of these paramours of her's lived, and, putting it down there,

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DHARWAR.

Murder.

went straight to the Chowree to announce what he had done.

The two men whom he named as having intrigued with his wife denied it before the Police Amuldar, and, as usual in such cases, no one appears to be able, or at any rate is willing to say he knows anything of this particular intrigue. The Police Patel, however, who was examined by the Court for the purpose, says he had heard she was an ill-conducted woman, and the prisoner's brother, who was also examined, says the same, mentioning at the same time that he only knew personally of her having been ill-conducted at their native village. But even allowing that her conduct was scandalously profligate, it does not appear that there was any immediate provocation to excuse the prisoner's act; and in his own confession the prisoner states that she had several times before given her reasons for not wishing to leave Koosoogul, and that it was her refusal to accompany him which at last roused him to commit this crime; so that it was not being made suddenly acquainted with his wife's conduct which excited him to this violence; and notwithstanding the readiness and openness with which he has made his confession, the Session Judge considers therefore that the prisoner has been guilty of a deliberate murder. The prisoner is accordingly convicted of murder; in having, in the village of Koosoogul, in the Hooblee Talooka of the Dharwar Division and Zillah, and in the night of Tuesday the 21st November 1854, (corresponding with Margsheersh Shood 1st, Shuké 1776,) purposely, and without justifiable cause, deprived of life his wife Busee, by stabbing her with a knife, so that she died.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXVI. Clause 4th of 1827, the following sentence is passed :—

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DHARWAR.

Murder.

That you, Tima bin Hunma, be taken to the common place of execution in Dharwar, and there be hanged by the neck until you are dead.

Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—Conviction and sentence confirmed.

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DHARWAR.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 134 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. J. H. PELLY, Supernumerary First Assistant Magistrate, on the 3rd November 1854. Tried by Mr. A. W. JONES, Session Judge, on the 7th, 14th, 16th, and 21st December 1854. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoner.—Gungowa, wife of Eeria, Kubeer, aged 35.

Charge.—Murder (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st); in having, on Monday the 25th September 1854, (corresponding with Ashwin Shood 3rd, Shuké 1776,) within the limits of the village of Hulehal, in the Hooblee Talooka of the Dharwar Division and Zillah, buried alive, and thus murdered, her new-born child.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and pleads not guilty.

It appears by the evidence of the Police Patel of Hulehal, that he heard on the evening of Monday the 27th September last, that some boys of the village had seen a child buried in a nulla as they were returning home with their cattle from the grazing-grounds, and next morning, on searching the place indicated, he found the story was true, and discovered under a bank of the nulla,

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DHARWAR.

Murder.

with earth heaped up over it, the body of a newly-born child. The matter was reported to the Police Amuldar, who came in the evening, and ordered an Inquest to be held on the body, the Report of which was proved before the Court.

It appears to the Session Judge, that it would have been better to have had the body inspected where it had been buried, instead of bringing it into the village; but however that may be, no marks of violence were discoverable on it, nor could the members say whether the child had been born alive.

The prisoner appears to have denied having had a child when questioned by the Police Patel in the first instance; but subsequently she admitted it, and her statement, as given before the Police Amuldar, and admitted before the Assistant Magistrate, was, though denied before the Court, proved to have been given and admitted voluntarily and unreservedly before that Authority. In this she stated that her husband had been dead for eight years, and that she had become pregnant a second time from an intrigue with a man named Yela, with whom she had been intimate for some years, and that she told him on the Sunday night that she felt the pains of labour coming on; on which he proposed to go with her to some other village, and came for her early on Monday, and they had got as far as the nulla, which passes by the field of a man named Gonia, when she was suddenly taken in labour, and gave birth to a child there, which she put on the ground and left in charge of Yela, and went home *feeling the wind cold.* She allowed, also, that the child was born alive and healthy.

But Yela altogether denies having ever had any connexion with the prisoner, and the prisoner's neighbours either cannot or will not depose to their having any knowledge of any such intrigue between her and Yela.

The prisoner, however, did not admit the statement

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described above before the Court, but declared, when asked for her defence, that the child was born dead, and that therefore Yela had buried it.

But this defence cannot avail her, because she herself stated at the close of Yela's examination that *he was the person who had killed it*, which is an admission that the child was born alive, for otherwise of course it could not have been killed. Then, in her own statement, she admits that it was born early on Monday, and that she left it with Yela in the jungle, away from her own house and village; and such wanton neglect of ordinary care of a new-born child, without any assignable motive, shows that the death of the child was intended: and whether it was true that it was thus left with Yela, or that she left it herself where it was found, the Session Judge thinks that there can be no reasonable doubt that the prisoner is equally guilty, and that the murder was committed in order that the evidence of her intrigue might disappear; and the Session Judge therefore convicts prisoner Gungowa of murder; in having, on Monday the 25th September 1854, (corresponding with Ashwin Shood 3rd, Shuké 1776,) within the limits of the village of Hulehal, in the Hooblee Talooka of the Dharwar Division and Zillah, murdered her new-born child.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. A. D. 1827, Section XXVI. Clause 4th, the following sentence is passed:—

That you, Gungowa, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—In her confession, recorded for the prosecution, the prisoner stated that she quitted the village, intending to go elsewhere, when she was suddenly attacked with the pains of labour, and delivered of a live child in Gonia's field.

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DHARWAR.

Murder.

The child, when subsequently found, was a corpse, and partially buried.

The prisoner asserted that she was accompanied on the occasion by her paramour Yela; but this allegation the witness denied, as also that he was her acquaintance, or had ever known her; and there was no one who could depose to any intrigue between them, nor, indeed, any evidence to show who was the father of the child if Yela was not.

The prisoner's statement must, however, be taken as a whole, and with every qualification she has introduced in it. She repeatedly declared that Yela was with her, and present at the birth; and it certainly seems highly improbable that in such an exhausted and depressed state any woman should have been able, unassisted, to have removed the child to a distance, and afterwards obliterated all signs of her confinement, as is shown was effected.

If the prisoner did not give the child to Yela with a malicious intent, which, from his promise to her (as she says he made) to bring it home, is not, the Court think, to be inferred, then even supposing the child to have been born alive, there is nothing to show that death was the result of any act attributable to the prisoner; and she is accordingly acquitted, and is to be discharged.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SHOLAPORE.

[Case No. 2 of the Criminal Return of the Magistrate of Sholapore for November 1854. Tried by Mr. A. BOSANQUET, Acting Second Assistant Magistrate, on the 3rd November 1854. Reviewed by Mr. C. M. HARRISON, Session Judge, on the 9th January 1855. Proceedings submitted for the final orders of the Judges of the Sudder Foujdaree Adawlut, by the Session Judge.]

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SHOLAPORE.

Appropriation of Property by Breach of Trust; and Receiving Property which he knew had been Stolen.

Prisoners.—No. 1, Apajee Deorao, Brahmin, aged 45.
2, Tatya *alias* Nursing Rao bin Nana Deshmook, Mahratta, aged 42.

Charge.—Appropriation of property by breach of trust (Section XL. Regulation XIV. of 1827); in having, on the 4th July 1850, in the village of Ratunjun, in the District of Barsee, fraudulently removed some vessels, and other articles, valued at Rs. 100, or thereabouts, belonging to the estate of the deceased Gopal Narayen.

Against prisoner No. 2 (Tatya) receiving property which he knew had been stolen (Section XLI. Clause 1st, Regulation XIV. of 1827); in having, on the 4th July 1850, in the village of Ratunjun, in the District of Barsee, received some vessels, and other articles, to the value of Rs. 100 or thereabouts, which he knew had been stolen.

The prisoners plead not guilty.

Finding and Sentence by the Acting Second Assistant Magistrate.—The Assistant Magistrate finds prisoner No. 1 (Apajee) guilty of appropriation of property by breach of trust. (Section XL. Regulation XIV. of 1827.)

The charge against prisoner No. 2 is not proved, but there being other charges against him, he is handed over to the Police Superintendent.

Prisoner No. 1 (Apajee) is sentenced to suffer one (1) year's imprisonment, with hard labour. (Section XL. Regulation XIV. of 1827.)

This sentence is subject to the confirmation of the Magistrate. (Section III. Regulation IV. of 1830.)

Confirmation by the Magistrate.—From the depositions of Venaik Abajee and Rungoo Luximon, it is proved that prisoner No. 1 was a servant or Karbharee of deceased, and it is also proved that he gave the property to, or allowed it to be taken by, Sudoo Burmia. It is

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Appropriation of Property by Breach of Trust; and Receiving Property which he knew had been Stolen.

sufficiently apparent from this that he was entrusted, for the time being, with the custody of the property, and should only have given possession to those whom in good faith he knew or believed to be entitled to it. The Magistrate therefore concurs in the conviction, and declines to interfere with the sentence passed against prisoner otherwise than to confirm it.

Letter from the Session Judge to the Magistrate.—Herewith you will receive copies of petitions presented to me by the individual Apajee Deorao, at present a convict in the Jail under my charge, and you are requested to forward all the papers and proceedings in the case to which he refers.

Reply from the Magistrate to the Session Judge.—The papers and proceedings called for in the case of Apajee Deorao are forwarded, which was committed by the Acting Second Assistant Magistrate on the 11th October 1854.

Case Reviewed by the Session Judge.—It appears from these, that the prisoner having been convicted of appropriation of property by breach of trust, was, on the 3rd of November 1854, sentenced by the Acting Second Assistant Magistrate, under the provisions of Section XL. Regulation XIV. of 1827, to one year's imprisonment with hard labour, subject to the confirmation of the Magistrate, and that this sentence was subsequently confirmed by the Magistrate on the 8th idem.

The Court does not consider that the petitioner has been properly convicted of appropriation of property by breach of trust.

This offence is defined in Section XL. Regulation XIV. of 1827 to be—"Any person *fraudulently removing* or *keeping* from its *owner* property so *entrusted to his charge or disposal*," &c.

But in the 1*st* place, Gopal Narain, to whom it

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belonged, being dead, the Acting Second Assistant Magistrate's proceedings in this case do not show who is the *owner* of the property the prisoner is accused of having appropriated; nor, in the 2*nd*, that it was ever entrusted either to *his charge* or *disposal;* neither, in the 3*rd*, that it was fraudulently *removed* by him; the evidence recorded showing merely that the prisoner gave it up on demand (whether rightly or wrongly is another question) to one Sadoo, the servant of Tatya Deshmookh.

Under these circumstances, being of opinion that the conviction and sentence should be annulled, the case is forwarded for the final orders of the Judges of the Sudder Foujdaree Adawlut.

Letter from the Session Judge to the Sudder Foujdaree Adawlut.—In conformity to the provisions of Regulation VIII. of 1831, Section III. Clause 3rd, I have the honour to transmit herewith an extract from my proceedings in the case, together with the whole of the papers and proceedings alluded to therein.

Resolution of the Sudder Foujdaree Adawlut.—The Court concur with the Session Judge that no guilt is proved, and that the conviction must be annulled.

Mr. Bosanquet, Acting Second Assistant Magistrate, is to be informed that a trying Authority's "finding" should be a summary of the evidence against the accused, not a mere record that he *finds* the prisoner guilty.

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AHMEDNUGGUR.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case of Gopal Vitul, sentenced to imprisonment for forfeiture of Security Bond. Proceedings certified by the Acting Magistrate, on the requisition of the Sudder Foujdaree Adawlut.]

Forfeiture of Security Bond.

Decision of the Second Assistant Magistrate.—Gopal

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AHMEDNUGGUR.

Forfeiture of Security Bond.

Vitul oorf Bapoo Koolkurnee, Brahmin, aged 40, writer in Désmané, Talooka Patoda, is this day received from the District Police Amuldar of Patoda, and is informed that whereas he, under date 28th February 1848, entered into a security bond that Namia wulud Yemia Mhang would refrain from murder, or any other crime, and be of good conduct for the space of five years, or that he, Gopal *alias* Bapoo, would forfeit the sum of Rs. 100, to be commuted, in case of non-payment, into imprisonment for one year; still the said Namia did, on the 3rd of February 1853, commit serious assault on one Kashee wulud Anundia, in having beaten him with a stick to such an extent as to break one of his ribs, for which he (Namia) was on the 15th March 1854 tried, convicted, and sentenced to three months' imprisonment; in consequence of which the security entered into by Gopal Vitul *alias* Bapoo Koolkurnee became forfeited.

Gopal Vitul *alias* Bapoo Koolkurnee, admitting having entered into the security, and also that Namia was guilty of and punished for a serious assault on the above date, after hearing his security bond, and the case wherein Namia was tried and punished, read over to him, recorded 2 and 1, the Second Assistant Magistrate informs him that his penalty is forfeit; but taking into consideration the lapse of time between the date of forfeiture, (March 15th, 1853), and that of these present proceedings (October 30th, 1854), the Assistant Magistrate is of opinion that some leniency may not improperly be shown, in mitigating the penalty of the forfeited security to Rs. 25, and in default thereof to three months' imprisonment; and therefore begs to forward this case for the favourable consideration of the Magistrate.

Reviewed by the Acting Magistrate.—The Acting Magistrate has no objection to urge to the mitigation of the forfeited penalty, in consideration of the apparent kind

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AHMEDNUGGUR.

Forfeiture of Security Bond.

intention with which the Koolkurnee entered into the security; but all parties contracting these engagements should be warned at the time that the liabilities they undertake are voluntarily incurred, and that the object of the law being to provide that securities shall exercise a surveillance over those for whose conduct they make themselves responsible, such engagements will not be modified, but the full penalties exacted.

Resolution of the Sudder Foujdaree Adawlut.—The penalty may be mitigated, as proposed by the Assistant Magistrate; but the Magistrate is to be informed that the case should have been referred to the Court for that purpose, as it exceeded his authority to reduce the amount of the forfeited penalty.

The penalty to be remitted to Rs. 25, or in default three months' imprisonment.

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NASSICK.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 1 of the Criminal Return of the Magistrate of Nassick for December 1854. Tried by Mr. S. M. PELLY, Assistant Magistrate, on the 2nd December 1854. Proceedings submitted to the Sudder Foujdaree Adawlut.]

Forcibly Injuring the Property of another person.

Prisoner.—Bhagaoo kom Mahadoo, Malee, aged 45.

Charge.—Forcibly injuring the property of another person, evincing at the same time a culpable disregard of the consequences which might ensue from such injury; she having, on the 16th of May 1854, (Mitee Wuishakh Wud 4th, Shuké 1776,) at Salpoor, Talooka Nassick, Zillah Ahmednuggur, struck three times with a stick a pregnant cow, the property of Sewram, value Rs. 4, from which injury the cow died.

The prisoner pleads not guilty.

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NASSICK.

Forcibly Injuring the Property of another person.

Finding and Sentence by the Assistant Magistrate.—The proof against the prisoner is strong enough. In her defence she denies having seen the cow, or struck it; and endeavours to prove that she was at home at the time the animal is said to have been ill-treated. There does not appear to be any extenuating circumstance why the prisoner should not be punished for her wanton cruelty. The Assistant Magistrate would have been inclined to give her the full benefit of the plea of thoughtlessness, but she does not give him the opportunity. He therefore pronounces her guilty of the offence with which she is charged; and in conformity with Regulation XIV. of 1827, Section XLII. Clause 2nd, sentences her to one (1) month's imprisonment, with hard labour suited to her sex; and further, by Act XVI. of 1850, Clause 1st, to pay the sum of four (4) rupees to complainant. In default of payment, and according to Clause 2nd of the above Act, he directs that her goods be sold to realize the amount.

Confirmation by the Acting Magistrate.—Confirmed on the apparent merits; it appearing, however, somewhat doubtful whether the award of Rs. 4 is legal, however just it may be, unless the making away with the complainant's cow can be viewed as an improper appropriation.

Letter from the Joint Magistrate to the Sudder Foujdaree Adawlut.—I have the honour to submit, for such notice as the Judges may deem fit, with reference to Act XVI. of 1850, the accompanying case. What I have respectfully ventured to say in paragraphs 4 and 5 of my letter to the Judges dated 5th August 1853, No. 369, leaves me hardly anything to add further on the subject.

Resolution of the Sudder Foujdaree Adawlut.—Act XVI. A. D. 1850 only applying to stolen property, the fine imposed on the prisoner, to be levied by distress, must be remitted; and the Joint Magistrate is to be

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NASSICK.

Forcibly Injuring the Property of another person.

informed, for his future guidance, that as fines may be made part of the punishment for offences coming under Section XLII. Regulation XIV. A. D. 1827, and a Magistrate is empowered by Section XIII. Regulation XII. A. D. 1827 to award the fine to the injured party, he will experience no difficulty from the fact of the provisions of the Act not extending to all offences. And further, the Court consider that the Joint Magistrate, when he confirmed the conviction upon "the apparent merits," might very properly have mitigated what appears to have been a severe sentence.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

AHMEDNUGGUR.

[Case No. 4 of the Criminal Return of the Magistrate of Ahmednuggur for November 1854. Tried by Mr. C. G. KEMBALL, Second Assistant Magistrate, on the 3rd November 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Breach of a Restrictive Order by the Magistrate.

Prisoner.—Govinda wulud Sudoo, Bheel, aged 25.

Charge.—Breach of a restrictive order by the Magistrate. (Regulation XII. of 1827, Section XXVII. Clause 2nd.)

Finding and Sentence by the Second Assistant Magistrate.—Convicted, and sentenced to be imprisoned for three (3) months, with hard labour. (Regulation XII. of 1827, Section XXVII. Clause 2nd.)

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Magistrate.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of your Criminal Return for November last, and to request you will have the goodness to certify copy of the restriction alluded to in Case No. 4.

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AHMEDNUGGUR.

Breach of a Restrictive Order by the Magistrate.

Reply from the Acting Magistrate to the Sudder Foujdaree Adawlut.—In reply to your letter No. 26, of the 6th instant, I have the honour to transmit, as directed, certified copy of the restriction alluded to in Case No. 4.

Translation of the Restrictive Order.—You proceeded to the house of complainant Aba wulud Mahadoo Nagrekur, and attempted to commit robbery, regarding which the Police Amuldar of Talooka Patoda prepared a case, and sent it to the Hoozoor; but the same not being proved against you, you are therefore discharged; but it has been decided that you should sleep every night at the Chowree of Moujé Oondeerwadee, Talooka Patoda. You are accordingly ordered to sleep at the Chowree every night; and if you do not act in accordance with the restriction imposed on you, you will be imprisoned, agreeably to Regulation XII. of 1827, Section XXVII. Clause 2nd, for six months.

Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion that the compulsion upon the prisoner to sleep every night at the Chowree of his village is a restriction which unreasonably affects the personal liberty of the prisoner, who is represented in the Return as a village householder; and the order is accordingly annulled.

The Court notice, that on the copy of the restriction the signature of the prisoner in assent is not apparent.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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KHANDEISH.

[Case No. 7 of the Calendar of the Khandeish Sessions Court for 1855. Committed by Rao Bahadoor RAM NAID, Deputy Magistrate, on the 13th January 1855. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 16th January 1855.

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KHANDEISH.

Murder.

Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Dusria wulud Nana, Bheel, aged 35.

Charge.—Murder; in having, at about noon on Monday the 18th December 1854, (corresponding with Margsheersh Wud 14th, Shuké 1776,) at the town of Bordeh, Talooka Sooltanpoor, Zillah Khandeish, without extenuating or justifiable cause, attacked one Ramjee Lala Patel, aged about thirty-five years, and wounded him in seven different places of his body, and on the fingers of his left hand, and so injured him, that from the effects of the wounds the said Ramjee Patel died on the spot within an hour after the attack; prisoner therefore rendering himself amenable to the provisions of Regulation XIV. of 1827, Section XXVI. Clause 1st.

The charge having been read and explained to the prisoner, he pleads not guilty.

Finding and Sentence by the Session Judge.—The Court, proceeding to consider the evidence before it on this subject, is of opinion, that though the eye-witness to the attack on deceased was only one person, the prisoner's wife Jethee, whose evidence is entered No. 5, yet that evidence is so very simple and unequivocal that it carries conviction of the truth. It is corroborated by that of Guiboo, a neighbour, who in his evidence (No. 6) deposes to having seen the deceased fallen on the ground, as witness believed dead, and seeing the prisoner Dusria pursuing his wife with a knife in his hand. The woman Jethee went straight to the Police Patel Nana, whose evidence (No. 4) corroborates her statement, and with the Patel was one Khundoo, a Bheel, who in his deposition (No. 7) affirms the fact of Jethee having given information direct, and of himself and others having arrested the unfortunate prisoner Dusria, who had a knife marked with blood in his hand, with

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KHANDEISH.

Murder.

which he threatened to kill himself, until assured that Ramjee Patel was alive, and that his clothes and turban, which had fallen by the dead body, were stained with blood,—a fact attested by evidence No. 4. The unhappy man Dusria, on being brought to the body of deceased, stated that he had murdered him (in the presence of the Members of the Inquest, as shown in evidence No. 3, affirmed by the evidence Nos. 1 and 2).

Under these circumstances, the Court records an opinion, that on the evidence marked Nos. 1, 2, 3, and 7, the fact of one Ramjee having been killed, and that prisoner Dusria confessed himself the murderer, is proved, and on the evidence Nos. 4, 5, and 6 the prisoner Dusria is convicted of murder; in having, at about noon, on Monday the 18th December 1854, (corresponding with Margsheersh Wud 14th, Shuké 1776,) at the town of Boredeh, Talooka Sooltanpoor, Zillah Khandeish, without extenuating or justifiable cause, attacked one Ramjee wulud Lala Patel, aged about thirty-five years, and wounded him in seven different places of his body, and on the fingers of his left hand, and so injured him that from the effects of the wounds the said Ramjee Patel died on the spot within an hour after the attack. But as, subsequently to this offence, he appears to have attempted to commit murder on a third party, for which offence he has been indicted and committed to trial, the Court will defer sentence till the second charge has been tried.

* * * * * *

The Court having this day acquitted the prisoner Dusria wulud Nana of the charge of attempt to commit murder, on which he was indicted, returns to consider the finding on the charge of murder in Case No. 7 of the General Calendar for 1855, and, as above stated, considers the prisoner Dusria wulud Nana convicted,

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KHANDEISH.

Murder.

on the evidence recorded, of murder, on the date and in the manner stated in the indictment, and proceeds to pass the following sentence :—

That you, Dusria wulud Nana, having been convicted of murder, on evidence recorded before this Court, do suffer punishment of death : that you be taken from prison to the usual place of execution at Dhoolia, and there hanged by the neck till you be dead, agreeably to the provisions of Regulation XIV. of 1827, Section XXVI. Clause 4th.

The above sentence being subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

It is to be noticed to the Deputy Magistrate, that he should not have recorded that he " finds the prisoner guilty of murder" ; but that he had sufficient evidence before him to justify the committal of the prisoner for trial for murder. His attention is to be directed to page 207 of the Reported Cases for March 1854.

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TANNA.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 118 of the Calendar of the Konkun Sessions Court for 1854. Committed by Mr. L. REID, Acting Joint Magistrate, on the 29th November 1854. Tried by Mr. R. KEAYS, Session Judge, on the 28th, 29th, and 30th December 1854, and 3rd January 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut by the Session Judge.]

Murder ; and Concealment of Murder after the fact.

Prisoners.—No. 1, Sambhya bin Rama, Kathkuree, aged 35.
2, Sadhya bin Jowlya, Kathkuree, aged 45.
3, Heera bin Rama, Kathkuree, aged 35.

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Prisoners.—No. 4, Mahadya bin Rupya, Kathkuree, aged 27.
5, Bapoo bin Dhondoo, Kathkuree, aged 32.
6, Arjoon bin Janya, Kathkuree, aged 35.
7, Lahanya bin Shetya, Kathkuree, aged 30.
8, Rupya bin Kasya, Kathkuree, aged 35.

Charge.—Prisoner No. 1, with murder (Reg. XIV. of 1827, Sec. XXVI. Clause 1st); in that, on a date unknown, but some time in last Ashwin, (corresponding to October 1853,) at the time of the ripening of the rice crops, he, while in a state of intoxication, severely beat his wife Chimee with a club, which caused her death then and there, within the boundary of the village of Khandar, Turuf Beerwaree, Talooka Rajpooree, in the Joint Magistracy of Colaba, Zillah Tanna; and prisoners Nos. 2 to 8 with concealment of the murder after the fact, under Regulation XIV. of 1827, Section I. Clause 5th; in that, being present, and having seen the prisoner No. 1 strike the deceased, and being cognizant of her death, they did not give information thereof to the Police.,

Finding and Sentence by the Session Judge.—The prisoner No. 1 (Sambhya) is charged with murder; the remaining prisoners, from No. 2 to No. 8 inclusive, are charged with concealment of murder after the fact, in the instance set forth in the indictment; and have severally pleaded not guilty.

The prisoner No. 2 (Sadhya) and No. 7 (Lahanya) having been admitted as approvers, have received a pardon, under the provisions of Section XXXIV. Clause 5th Regulation XIII. of 1827, and were dismissed from the bar at the Court's last sitting.

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From the 'punchayúttrúma' (recorded No. 4), proved in the usual way, by the evidence of witnesses Nos. 2 and 3, it appears that the Members were present when the bones now before the Court were exhumed. These bones, from the circumstance of a black 'loogda,' brass bangles, and necklace, such as are usually worn by Kathkuree women, being found with them, they suppose to have been those of a woman who had probably been buried about six months, and who had been interred with her head downwards. From the situation of the place where the bones were discovered, they are further of opinion that the woman had probably met her death by unfair means.

The obscure points in this document are very satisfactorily cleared up by the evidence of the Civil Surgeon, who, from the examination of the bones, pronounces them to be those of a female subject, of between the age of twenty and forty years, who, from one fœtal bone found amongst the rest, must have been between the seventh and ninth month of pregnancy. He further pointed out to the Court that the sixth, seventh, and eighth ribs of the right side were fractured, as if by a blow inflicted during life. The bones being placed in position, the fractures were in a straight line, and in the *inside*, clearly indicating a blow, and placing it beyond the bounds of probability that these fractures could have resulted from accident when the bones were exhumed.

The spot at which the bones were discovered is admitted by the prisoner No. 1 (Sambhya) himself to be the same spot at which he buried his wife Chimee; therefore, from the above, the Court considers that it is justified in assuming that the bones are those of Chimee, who had died from the effects of violence; and the points next to be determined are—1*st*, whether her death was caused by the prisoner No. 1 (Sambhya); and 2*nd*, if this is the case, whether the said prisoner is guilty of murder or culpable homicide.

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The Court had very great difficulty in obtaining any information from the witnesses, who have all of them, with the exception of the witness Buya (No 10), repudiated the evidence given by them in the first instance before the Police Authorities, alleging that those statements had been extorted from them by ill-usage. Of this, however, they have no proof, and the Court believes that they have one and all committed perjury. *To prove* it, however, would be impossible, for their evidence relates chiefly to what they *saw*; therefore the Court does not consider it expedient to take more serious notice of it.

From the evidence, it appears that the prisoners were all seated drinking liquor at about 100 paces from the village of Khandar, when the prisoner No. 1 (Sambhya), who was intoxicated, got up, and, without any cause whatever, struck the deceased Chimee, who was at the time pregnant, two blows with a stick about as thick as three fingers. That violence was used, therefore, towards Chimee, and that she died very shortly afterwards, is undisputed. The witnesses assert that the blows were inflicted on the legs; but from the fracture of the ribs, as shown above, one blow at all events must have been given on the body; and as it is in evidence that Chimee was at that time between seven and nine months gone with child, there can be no doubt that her death was caused by the prisoner No. 1 (Sambhya): and now, is this to be considered murder or culpable homicide?

It is stated that the prisoner was intoxicated at the time he assaulted his wife. This is no extenuating circumstance, for no person has a right wilfully to deprive himself of his senses, by taking liquor: if he does so, the law still holds him responsible for his acts. This is the only argument which can be brought forward by any one who may entertain a different opinion on the subject of drunkenness to this Court, in the prisoner's

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favour. On the other hand, the brutality of the act of striking with a thick stick a woman eight or nine months advanced in pregnancy appears to be so enormous, that the Court considers the offence which the prisoner has committed is murder, and he is therefore convicted of wilful murder; in having, on a date unknown, but some time in last Ashwin, (corresponding to October 1853,) at the time of the ripening of the rice crops, while in a state of intoxication, severely beat his wife Chimee with a club, which caused her death then and there, within the boundary of the village of Khandar, Turuf Beerwaree, Talooka Rajpoorce, in the Joint Magistracy of Colaba, Zillah Tanna.

The Court does not consider the evidence against the remaining prisoners sufficient to support a conviction: they are therefore acquitted, and discharged from the bar.

The disgraceful conduct of witness No. 8 (the Police Patel) has been duly noticed by the Deputy Magistrate. Further remark is therefore unnecessary, as it is presumed that he has made other arrangements for this Officer's duties.

Having duly considered the nature of the offence proved against the prisoner No. 1 (Sambhya), and the amount of punishment allowed for the same under the Regulations, the Court passes the following sentence :—

That you, prisoner No. 1 (Sambhya bin Rama, Kathkuree), be hanged by the neck until dead, at the usual place of execution at Tanna. (Regulation XIV. of 1827, Section XXVI. Clause 1st.)

This sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. A. Remington.—I concur in the conviction of wilful murder.

There seems reason to suppose that the assault was the act of a drunken man; and though intoxication, as remarked by the Session Judge, cannot be allowed to

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form an excuse for an unlawful act, it may furnish a test of the intention with which it was done.

The conduct of the prisoner towards his wife, who was in an advanced stage of pregnancy at the time, may fairly be ascribed to excessive drinking, no previous ill-usage to indicate malice being proved; and I would remit the capital punishment.

Minute recorded by Mr. M. Larken.—The direct evidence against the prisoner is the deposition of Jankee (witness No. 5), who says he struck his wife twice on the *legs* with a stick three fingers thick; of Buya (witness No. 10), who says he struck her twice on the *head* with a club; of the approver (witness No. 18), who says the prisoner struck her with a stick, about as thick as a finger, on the thighs; of the approver (witness No. 19), who says he struck her with a stick three fingers thick on the *ankles*. The Civil Surgeon found, that of the bones produced in Court, and assumed to be the remains of the deceased Chimee, *three ribs* were fractured. His examination shows that the evidence of Buya is open to the suspicion of being got up by the Police; and this impression is strengthened by the depositions of witnesses Nos. 13 and 14, who contradict one another upon the point they were examined to establish. The approvers speak of the two blows as trifling—the deceased, they say, was not knocked down; and witness No. 18 adds that she died four or five days after she was struck, walking about in the interval. The bones were discovered in a place not used as a cemetery; but the reason given by Jankee (witness No. 5) why they might have been buried there is satisfactory.

The Joint Magistrate says that the prisoner is an infamous character, and the terror of the neighbourhood. This may account for the accusation, which, in my opinion, has broken down in the trial. I would acquit the prisoner.

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Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

Minute recorded by Mr. W. H. Harrison.—The evidence in this case, if it can be relied upon, goes to show that the prisoner assaulted his wife, Chimee, she being in a state of pregnancy, and that she died shortly after, and was buried by him in a spot not used for purposes of interment, whence, about six months subsequently, the bones of a woman were exhumed, under circumstances that lead to the belief that they were those of the deceased Chimee. The evidence to the assault is not, however, consistent. The Session Judge observes that all the witnesses, in his opinion, save Buya (No. 10), have perjured themselves. Her account seems to be relied upon for the conviction. It is, however, not corroborated, but contradicted, and in important particulars, by the two approvers, whose very presence she denies on the occasion.

But if the assault were established, I do not find it connected satisfactorily with the death of Chimee, who may have died in child-birth, as alleged by the prisoner. What Jankee (witness No. 5) says on the point is only hearsay, and what Buya (witness No. 10) states of her death immediately following the assault does not agree with Jankee's story, and is contradicted by the approvers.

Three of the ribs dug up are stated to be fractured; but I apprehend that it cannot be positively relied upon so long after death that this fracture took place during life, and that it was certainly not caused in digging up the bones, or in the act of interring the corpse.

In regard to the intoxication of the prisoner at the time of the assault; in regard to the parties present; in regard to how far deceased was advanced in pregnancy; and on what part of her person she was struck, with how much violence, and when she died, the evidence is

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contradictory. No witness alleges that she was struck on the body or ribs. I would acquit the prisoner.

The evidence of the Joint Police Officer should not have been recorded against the prisoner.

Final Resolution of the Sudder Foujdaree Adawlut.— The Court acquit the prisoner, for the reasons recorded in the Minutes of Messrs. Larken and Harrison, which are to be communicated to the Session Judge.

The prisoner is to be discharged.

The Session Judge is to be told, that the particulars specified in Clause 1st, Sect. XXXVI. Reg. XIII. A. D. 1827, should be ascertained and entered, after a witness has been put on solemn affirmation, and also that, having ascertained that the girl Sukhoo was wanting in intelligence, he ought not to have examined her at all.

The Court observe that the date of the offence set forth in the charge in the Sessions Court, last Ashwin Shood, would correspond with October 1854, instead of October 1853. The witness Buya, in the Session Judge's English notes, is also made to allude to her brother Rupya the witness No. 14, as her brother the prisoner No. 8, which is likewise an error.

The Joint Magistrate is to be informed that he must not find parties "guilty" of a crime, and then commit for trial. The verdict of the trying Authority determines the guilt, not the Magisterial inquiry.

The Joint Magistrate is to be referred to the Court's remark, page 207 of Reported Cases No. III., for March 1854.

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RUTNAGHERRY.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Reference from Mr. R. KEAYS, Session Judge of the Konkun, to the Sudder Foujdaree Adawlut, respecting the disposal of the Warrant of an escaped Convict.]

Disposal of the Warrant of an Escaped Convict.

Warrant.—Whereas six cases were referred to the Court of Sudder Foujdaree Adawlut on the 25th November 1846, by the Session Judge of the Zillah of the Konkun, holding a Session at Rutnagherry, in the said Zillah, wherein Kanoo *alias* Kanya bin Janoo Seegwan was charged in Cases Nos. 1 and 3 of the Second Supplemental Calendar, dated 20th November 1846, and No. 2 of the Third Supplemental Calendar, dated 23rd November 1846, with gang robberies by night, with force; in Cases Nos. 2 and 4 of the said Second Supplemental Calendar with attempts to commit gang robberies by night, with force, and in Case No. 1 of the said Third Supplemental Calendar with robbery by night, with force; and has been found guilty on all and each of the charges, and has been sentenced to be imprisoned and kept to hard labour for the term of fourteen (14) years from 25th November 1846, being the date on which sentence was passed by the Session Judge, you are hereby required to execute the said sentence according to the Regulations.

Reference from the Senior Assistant Session Judge of the Konkun to the Session Judge.—The enclosed warrant having been returned by the Assistant Magistrate in charge of the Subsidiary Jail at Waghotun, is forwarded to the Sudder Foujdaree Adawlut, for their final instructions regarding its disposal. The convict Kanoo *alias* Kanya bin Janoo Seegwan underwent his sentence up to 8th August 1853, when he escaped from the Subsidiary Jail at Waghotun.

His escape was reported to the Sudder Foujdaree

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Disposal of the Warrant of an Escaped Convict.

Adawlut by the Magistrate of Rutnagherry on the 13th August 1853, letter No. 1240, and he has not yet been recaptured.

The correspondence hereafter enumerated, which is on the records of the Sudder Foujdaree Adawlut, will inform the Judges of the circumstances of the escape.

* * * * * *

Reference from the Session Judge to the Sudder Foujdaree Adawlut.—Forwarded for the orders of the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The warrant is to be returned to the Session Judge, with instructions to have it retained at Rutnagherry until the Assistant Session Judge can report execution in full.

In the case of Rama wulud Chima, reported at page 591, Vol. I. of the Criminal Reports, the Session Judge of Ahmednuggur appears to have kept the warrant in his possession, and which appears to the Court to be the proper course.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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AHMEDABAD.

[Case No. 59 of the Criminal Return of the Magistrate of Ahmedabad for September 1854. Tried by Mr. H. B. LINDSAY, Third Assistant Magistrate, on the 30th September 1854. Proceedings submitted to the Sudder Foujdaree Adawlut.]

Forfeiture of Recognizance Bond.

Prisoner.—Gobur Veerajee, Kolee, aged 40.

Charge.—Forfeiture of recognizance bond, which he entered into by order of the District Deputy Magistrate before the Purantej Police Amuldar, that he would refrain from committing any illegal acts in general, and be of good conduct for the period of two years, or that he would forfeit the sum of Rs. 100, to be commuted in case of non-payment into imprisonment for two years. Notwithstanding the above engagement, the said Gobur

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Forfeiture of Recognizance Bond.

Veerajee did, in Sumvut 1910, Bhadrupud Wud 12th, (Tuesday, September 19th, 1854,) in the day-time, in Ahmedabad, in Khass Bazar Quarter, steal from the house of the plaintiff, Kureem Bux Kureem Moola, cloth to the value of Rs. 1. Thus the prisoner having committed theft, in contravention of Regulation XIV. of 1827, Section XXXIX., the recognizance bond entered into by him becomes forfeited.

Gobur Veerajee admits having entered into the recognizance bond, and pleads guilty to the charge of theft. As corroborative proofs of his having committed theft are necessary, the following evidence is taken.

* * * * *

Decision of the Third Assistant Magistrate, confirmed by the Acting Magistrate.—The prisoner having nothing to urge in his defence, the Assistant Magistrate finds it proved that he did commit theft, in contravention of Reg. XIV. of 1827, Sect. XXXIX. His recognizance bond is therefore declared forfeit, and he is directed to pay one hundred (100) rupees, or in default to suffer ordinary imprisonment for the space of two (2) years, under Regulation XII. of 1827, Section XXVI. Clause 2nd.

After the payment of the above fine, or the expiration of the imprisonment, the prisoner is further directed to enter into a recognizance bond to abstain from committing any offence for the space of one (1) year, or in default to pay a fine of twenty-five (25) rupees; in event of non-payment, to undergo ordinary imprisonment for the space of one (1) year, under Regulation XII. of 1827, Section XXV.

The clothes to be given to the plaintiff.

The above decision is subject to the confirmation of the Acting Magistrate.

There appears, on investigation, some doubt as to whether security as well as recognizance was not taken from the prisoner; a letter, therefore, is to be sent to the

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Superintendent of Police, asking him whether this is the case or not.

The Third Assistant Magistrate would respectfully suggest to the Acting Magistrate the expediency of ordering all Police Amuldars, Foujdars, &c. to thoroughly explain to prisoners the nature of a recognizance bond before they take it from them; as the Assistant Magistrate is of opinion that in many cases prisoners merely consider the penalty as a threat, not intended to be carried into effect—therefore they care very little about forfeiting their bond.

Letter from the Acting Magistrate to the Sudder Foujdaree Adawlut.—I have the honour to forward the original papers and proceedings held before the Third Assistant Magistrate, in a case of prisoner Gobur Veerajee, who had entered into a recognizance bond to the effect set forth in the bond and in the indictment, that in default the prisoner would forfeit the sum of Rs. 100, or suffer imprisonment for the space of two years.

That conforming to the agreement entered into by him, the prisoner's recognizance bond has been declared forfeit. As, however, the penalty to be enforced involves a longer period of imprisonment than the Magistrate is authorised to adjudge, I beg, in conformity to the rule laid down in Clause 2nd, Section XXVI. Regulation XII. of 1827, that you will be good enough to submit the same for the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Precept issued by the Sudder Foujdaree Adawlut to the Acting Magistrate, dated 22nd November 1854.—The Court do not think they can uphold these proceedings. The recognizance bond binds the party to refrain from "any illegal acts in general," and not from some "specified act," as the law requires.

The result is, that for a simple theft, to the amount of one rupee, the party is sentenced to a fine of Rs. 100,

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or two years' imprisonment; and after payment of the fine, or expiration of the imprisonment, the defaulter is to be bound again to general good conduct for another year. The Court regret that the Magistrate should have failed to notice the extreme severity of this award, and should have confirmed it.

Return of the Acting Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning this Precept, the Magistrate has the honour respectfully to state, for the consideration of the Judges, that the prisoner in this case made no appeal, and nothing exculpatory or in mitigation of the full penalty having been urged by the trying Authority, the Magistrate did not see any reason to interfere in the decision.

The prisoner is not a new offender. Had he been, or had any circumstances appeared that would have justified leniency, the Magistrate has no doubt that his Assistant would not have omitted to bring them to his notice. As it is, the Magistrate finds that the prisoner had been brought before the Police *on two former* occasions. The first occasion he was charged with theft, convicted, and punished; on the second occasion he was taken into custody one night by the Police under very suspicious circumstances, and on the following morning gave a false name and residence.

He had evidently planned a robbery, and would have executed it, had not the owner of the house given the alarm, when the prisoner ran off; and under these circumstances was met by the Police while going their rounds, and taken into custody. On being brought before the Foujdar the following morning, he stated his name to be Natha Veera, of Dubhora, a village in the Mahee Kanta jurisdiction; but this on inquiry turned out to be false, as before the Mahee Kanta Authorities he gave his name Gobur Veerajee, of Modhasuna, Purgunna Purantej, of this Collectorate.

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On being forwarded to the District Police Amuldar of that District, security was demanded from him for his general good conduct, which being unable to furnish, the District Deputy Magistrate ordered the recognizance to be taken. Ten days after he had furnished it he proceeded to Ahmedabad, entered the house of one Kureembux, and stole from thence as much property as he could lay his hands on. There is no reason to suppose he would not have robbed property to any amount had it been in his way.

Under these circumstances, although the act which the prisoner committed, and in consequence of which his recognizance bond was declared forfeit, may have amounted to theft only, the Magistrate would respectfully submit for the consideration of the Judges, whether there was anything extenuating in the circumstances of the prisoner's case which would have justified a mitigation of the full penalty.

In regard to the terms of the bond, which the Judges find not to be in conformity to the definition given of recognizance in Clause 1st, Section XXIV. Regulation XII. of 1827, the Magistrate would beg respectfully to submit for the consideration of the Judges, whether it is not lawful for the Magistrate to bind over by recognizance to general good conduct, without entering into a detail of the particular acts which constitute good conduct, a person of bad reputation, or who from other reasonable cause is considered an object of public distrust. The prisoner in this case may, the Magistrate is respectfully of opinion, be included in the class of offenders indicated in Section XXV. Regulation XII. of 1827; and should the Court be pleased to concur in the above view, the Magistrate trusts that the convictions and penalty awarded in this case may be confirmed; as also the order requiring the prisoner to furnish similar engagement for general good conduct for another year.

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Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be informed that the Court hold the law in respect to recognizances to be as laid down in the extract from their proceedings of the 22nd November last, and the order of the Magistrate is therefore annulled.

It rests with the Magistrate to declare this person to be an object of public distrust, and to treat him accordingly.

CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN FEBRUARY 1855.

Present, The Hon'ble JAS. GRANT LUMSDEN, Esq., Officiating Chief Judge.
ASHNESS REMINGTON, Esq. } Puisne Judges.
METCALFE LARKEN, Esq. }

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BROACH.

[Case No. 8 of the Calendar of the Broach Sessions Court for 1854. Committed by Mr. E. L. JENKINS, Magistrate, on the 2nd November 1854. Tried by Mr. W. H. HARRISON, Session Judge, on the 30th November, and 1st and 2nd December 1854. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Mulik Ameer Kurwa, Mussulman, aged 27.

Murder.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI.); in having, between the hours of 10 A. M. of the 10th and 6 A. M. on the 11th June 1854, (corresponding to Jésht Shood 14th and 15th, Sumvut 1910,) purposely, and without justifiable or extenuating cause, deprived of life one Moosab Baker, Mussulman, of the city of Broach, by throwing him into a well situated within the boundaries of Weejulpoor, in the suburbs of the said city.

The prisoner pleads not guilty.

Finding and Sentence by the Session Judge.—The prisoner is accused of the murder of Moosab, a miser of the city of Broach, who on the 16th June last left his

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house at about 8 A. M., and proceeded to the 'durgah' of Nana Meea, a Mahomedan Saint, situated in the Weejulpoor suburb, about a mile from the city, purchasing on the way, at the shop of a Ganchee, two cocoanuts, as an offering to make at the tomb. He did not return. His house was noticed the same evening by the neighbours to be empty, and on examination was found to be rifled of the money and valuables which he by repute possessed, neither bonds, nor accounts that could lead to an identification of the missing articles being forthcoming. His body was found the next morning floating in an old ruinous well situated about 150 yards from the durgah, where he was last seen alive.

The proof that the prisoner at the bar committed this murder is entirely circumstantial. He was with the deceased at his house in the morning before he left home—a fact which he denied when first called by the Foujdar on the evening of the day in question. He was next seen with him at the shop of the Ganchee, of whom the cocoanuts were purchased, on the way to Nana Meea's shrine; and further on, when passing the house of a grain-dealer, in the same direction. So far, and a little further on, the prisoner admits his society with the deceased on this day. Then, as he alleges, they separated; but the witness No. 14, a Sepoy of the 17th Regiment, who had gone to the durgah that morning, swears he was there with deceased, and adds, that on quitting the place to return to his duty at Broach, he observe prisoner and deceased leave also, and proceed in the direction of the well where the body was next morning found. The prisoner's account is, that beyond the grain-dealer's, at about a quarter of a mile from the durgah, he left deceased to go on alone, and turned to the shop of witness No. 32, whence, with Nos. 33 and 34, he returned to the city. He calls these men to corroborate his statement. The Session Judge cannot, however,

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believe their evidence, which was given as though they had been tutored. Some discrepancies in their statements are such as to confirm this suspicion, and the *alibi* not being sustained, adds weight to the case against the prisoner. The prisoner was next seen at about 2 P. M., at or near the house of the deceased, which is situated in the hollow of one of those ravines that indent the city of Broach, upon the river face; by one witness (No. 15) in the verandah of the house, and by another (No. 21) not many paces distant, having, as he swears, a bundle under his arm, and proceeding from its direction towards a ridge, over which access might be had by an unusual route to his own residence. Another witness to the same effect (No. 10) is not relied upon by the Session Judge. The testimony of No. 21 is alleged, on the part of the prisoner, to have been made up, and taken long after the others; but its date disproves this.

The prisoner next appears—the hour, according to the witnesses, being still about 2 P. M.—at his wood-store, not far off, whither he had summoned witness No. 18, who had been his security for a bond debt, to receive the money. The witness had several times asked for payment, the last occasion being about three days previous, when it was replied vaguely by prisoner that on his getting money he would pay. He took him to his house, and paid him Rs. 75 in cash. The prisoner, when first accused, reserved his defence; but his father, who apparently was in partnership with him in selling wood, denied to the Superintendent of Police that this payment was made at all; then to the Magistrate averred it was paid with his money; and before this Court, when his books were present without any such entry, alleged that it was partly his own and partly his son's money which was used. The cash payment, it appears, was made, and an untrue account of the means has been given. The accused gives now no satisfactory account

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of this payment; a circumstance pregnant with suspicion, and regarding which explanation was to be reasonably expected from him. A trifling sum was found in the prisoner's house; in his uncle Moosaf's (near to his) a bag of more than Rs. 300, concealed, of which Moosaf denied all knowledge, while its discovery was attended by a significant expression of alarm on the part of Moosaf's wife, as sworn to by the officer who made the seizure (witness No. 22).

There is no discrepancy of any consequence in the evidence by which these facts have been established, and the Session Judge himself visited the localities the more readily to detect such if they occurred. Stress has been laid in the defence on the principal witness (No 14) stating in Court, in addition to his former deposition, that his suspicion was excited by the manner of the prisoner when at the durgah with deceased. He gives no good reason for the suspicion, and it is probably imaginary that he then felt any. It is not extraordinary, if what he has since heard really led to the fancy. The Session Judge has observed of this witness, that he was not bright, but left an impression of his truthfulness on the Court.

It is further maintained for the prisoner, that none of the circumstances brought against him are inconsistent with his innocence; that no murder was necessarily committed—an accidental fall into the well would account for deceased's death; and that he alone could not have carried out such a scheme of murder and plunder. Further, that the whole is a plot against him on the part of the Police. This last assertion is entirely unsupported. Most of the witnesses' depositions were taken the day the corpse was found, and there was no time to conspire. The Session Judge considers it very probable that the murder was committed by more than one person. That a murder did take place, there is ample ground for believing, on the motive and circumstances

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set forth; and that the prisoner at the bar committed it is proved to the Court's entire conviction by the evidence recorded against him, and the inferences to be justly drawn from the weakness or failure of the pleas set up for the defence.

A verdict of guilty of murder, as charged, is recorded against the prisoner Mulik Ameer.

The Session Judge having found the prisoner guilty, proceeds to sentence him, according to the provisions of Regulation XIV. of 1827, Section XXVI. :—

That you, Mulik Ameer, having been found guilty of murder, be hanged by the neck until you be dead, at the usual place of execution at Broach; which sentence is subject to the confirmation of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. A. Remington.—The prisoner stands convicted on circumstantial evidence of the wilful murder of Moosab Baker, a reputed miser, residing in the city at Broach.

It appears to be generally admitted, that the prisoner was the last person seen in company with deceased on the day he was missing, and it was distinctly deposed for the prosecution by Sheik Kasum (witness No. 14), that he saw both the prisoner and deceased at Nana Meea's durgah, near to where the body was subsequently discovered, and that on his departure from the spot he left them together. The witness was quite positive in his identity of the prisoner, and he also recognized in the corpse of Moosab the person whom he had seen the day before in Mulik's company at Nana Meea's.

It might be inferred from the evidence of Kooshal (witness No. 11), that deceased had gone to the durgah on the prisoner's invitation, as it was the latter, the witness deposed, who purchased the cocoanuts intended as an offering to the shrine, and paid the money for them. It was an omission, therefore, not to have ascertained

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something about deceased's ordinary habits in respect to his visiting the durgah; for the day was a Friday, and being, moreover, a season for fasting, fewer people, as the Foujdar observed in his evidence, were accustomed to go there than at other periods of the year, and Sheik Kasum did not state that there were any more worshippers in attendance at the time. The inquiry, if pursued, might have led to some important result.

Assuming, however, that murder was actually committed, as the Session Judge found to have been the case, the possibility of the prisoner's guilt is certainly far from questionable, inasmuch as he was the last person seen with deceased on the day he was missed, and he asserted to the Foujdar, contrary to truth, that he had not been with Moosab for two days, denoting thereby a consciousness of the effect of any evidence to establish that fact against him. Then he was observed by Tar Mahomed, a neighbour of deceased, standing on the 'ota' of Moosab's house in the afternoon; while another witness, Sirdar Khan, deposed to the prisoner having come from the direction of it with a bundle under his arm. Added to this, both complainant and the Police stated that Moosab's house had been entered into and robbed; and on the very day he was missing, the prisoner, apparently a needy man, discharged an outstanding debt long overdue, and which, when demanded only a few days before, had been put off with evasions and excuses.

The Session Judge, moreover, disbelieved the evidence for the defence, which must be considered in a great measure false, if the prosecution be credited. I can certainly see no reason for distrusting the story told by Sheik Kasum, a principal witness for the prosecution, who is a Regimental Sepoy, temporarily attached to Broach, and having no previous acquaintance with either party, would not intentionally, it may be presumed, have implicated the prisoner falsely; and that he did

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so at the instigation of others, seems as little supported by evidence or presumption as the allegation put forth in the defence, that the Police had brought a false accusation against the prisoner. In that respect, there seems no reason to complain of the prosecution, the principal witnesses cited for which belong to the prisoner's own persuasion and sect.

But the most important feature in the case, and one deserving most serious attention, is that the body, which was discovered in a well near the durgah, presented no appearance of violence whatever. The well is described as containing no water fit either for domestic or agricultural purposes even, in which case it can hardly be supposed that deceased would have gone there for any; but he might have been attracted to the spot by curiosity, seeing, as Sheik Kasum observed, that there were people about, and then, owing to its ruinous and dilapidated condition, have fallen in and been drowned. The prisoner, aware of that fact, might then have started off, and acted in the manner ascribed to him, or he may have precipitately left deceased at the durgah, and robbed his house in his absence.

It is further deserving of remark, that it is nowhere stated how or by whom the body was first discovered, nor was the condition of the well, and the ground around its brink, described—whether trodden down by several persons, or the footsteps of only one found near the spot.

The case is no doubt suspicious in a very great degree; but it is quite possible, after all, that an accident may have overtaken deceased, as above suggested. The true cause of death, apart from drowning, but without further violence, has not been clearly established, as in criminal homicide it always ought to be; and as nothing to connect the prisoner with the deceased was found on his person or in his possession, and the payment of the debt

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admits of this remark, that there was no immediate pressure on the prisoner at the time in respect to its discharge, while prudence would have suggested the concealment of the money obtained under such circumstances rather than its ostentatious exhibition, I must hesitate in pronouncing the prisoner to be guilty of wilful murder, as charged.

Minute recorded by Mr. M. Larken.—The prisoner has admitted so much in his defence before the Sessions Court, that if reliance is to be given to the deposition of the Private of the 17th Regiment, Sheik Kasum (witness No. 14), his guilt is established. The prisoner has endeavoured to show that this principal evidence has been got up by the Police, and has indicated discrepancies in it, which, he urges, are sufficient to prove it to be false. I find no reason for questioning the truth of this deposition. I would confirm the conviction and sentence.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction and sentence; and the only other Judge present with the Court being the Session Judge who tried the case, the Court resolve to address the Government, requesting them to nominate an officiating Chief Judge, during the absence of the Honorable Mr. Warden.

Minute recorded by the Honorable J. G. Lumsden, Esq.—The prisoner Mulik Ameer Kurwa is charged on circumstantial evidence with the murder, on the 11th June 1854, of one Moosab.

It is necessary to inquire to what the evidence, if *accepted as true*, amounts; what facts it establishes; and whether those facts constitute sufficient proof of guilt to justify a conviction.

Prisoner is shown, then, if the evidence for the prosecution be credited (see depositions of witness Ramla Wulub, No. 8; Sara, milkwoman, No. 9; Shaik Mahomed Fukeer Mahomed, No. 10; the latter not credited),

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to have been *about* 8 *o'clock* on the morning of the 11th of June in company of deceased at the house of deceased ; to have been next seen with deceased either at 9 or 10 o'clock the same morning at the shop of one Kooshal Bhoola (depositions of witnesses Kooshal Bhoola, No. 11, at 9 ; Sheriarjee, No. 12, at 10), from whom he purchased two cocoanuts ; to have left the shop in the direction of Golwar, on the road to the Peer's shrine of Nana Meea ; to have next been seen by witness Girdhur Jugdis (No. 13), passing his shop in the direction of the same shrine, and *coming from Golwar*, and afterwards to have been seen with deceased (deposition of witness Sheik Kasum wulud Sheik Husein, No. 14) *at the shrine* of Nana Meea, by Sheik Kasum wulud Sheik Husein, a Sepoy of the 17th Regiment Native Infantry.

At a distance from this shrine, according to the Foujdar of Broach (deposition of witness Syed Ali, No. 25), about 300 paces in a straight line, or 500 by a path which leads by a building called the Borah's Tukia, according to witness Sheik Kasum (No. 14) at too great a distance to distinguish people from the shrine, is a ruinous well. The latter states that he accompanied the prisoner and deceased on his return from the shrine as far as the Borah's Tukia, which was a little (he says 20 paces) out of the direct road from the shrine to Broach.

The next we hear of prisoner is to be found in the evidence of Shaik Mahomed Fukeer Mahomed (No. 10), who says he saw prisoner near deceased's house at 2 P. M. on the same day. He said before the Magistrate that he saw him on the ota of the house, but the evidence of this witness is not relied on by the Session Judge.

Tar Mahomed, a Revenue Sepoy (witness No. 15), says that he saw prisoner about the same hour on the ota of the deceased's house.

Sirdar Khan Ahmed Khan (witness No. 21) states that he saw prisoner *about the same hour* near the house

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of deceased, with a bundle in a black 'roomal' under his arm, going in a direction away from the house, and about 20 or 25 paces distant from it. He says that the bundle was of a size to have contained one or two seers of 'jowaree.' Witness Ramla Wulub (No. 8) deposed that he saw that the prisoner's house was shut about half past 4 of the same day.

The discovery about 6 P. M. that Moosab was missing is shown by the evidence of Ramla Wulub (the preceding witness No. 8) and Sara the milkwoman (witness No. 9). The house of deceased was searched, and two boxes, in one of which his brother Sheik Wulub Sheik Bakur (witness No. 7) deposes that the deceased kept money, and in the other 'dufturs,' were broken open, and the dufturs and vessels scattered on the floor. This witness further deposes that jewels which his brother took in pawn were likewise missing.

Inquiries made by the Police led to suspicion falling on the prisoner, who was immediately arrested. Then followed the discovery of the dead body of Moosab the following day, floating in the well before described, and of the suspicious fact that on the previous day, or day of the supposed murder, prisoner had paid to his security Rehmut Khan Sirdar Khan (witness No. 18) a sum of Rs. 75, which he had owed for some time to one Amba Kaseedas (witness No. 20).

It is to be observed that witness Sirdar Khan deposes that he was called to prisoner's shop by a man named Ramzan, who *had previously searched for him at the river side, and that the payment was made at* 12 *or* 1 *o'clock*, which statement is not consistent, if the murder be presumed, with the evidence of the witnesses, who say they saw prisoner near the house of deceased about 2 P. M.

Finally, a bag of Rs. 300 is found concealed in a loft in the house of witness No. 24 (Mulik Mustoo), the

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prisoner's uncle, and according to the evidence of the finder Ushruf Khan Abdool Ali (witness No. 22), Mustoo's wife unguardedly reproached him, on the discovery taking place, in terms which imply that the money had not been honestly come by. '

On this evidence, prisoner has been convicted of the murder of Moosab. He has brought evidence to establish an *alibi*, and to show that he did not accompany deceased to the shrine of Nana Meea; but this has not been credited by the trying Judge, Mr. Harrison.

The evidence which I have recapitulated is entirely presumptive. It unquestionably affords grounds for the gravest suspicions as to the prisoner's guilt, but I do not consider that the facts it establishes will support a criminal conviction.

It is *presumed* that the prisoner and deceased went to the well together, after leaving witness No. 14 (Sheik Kasum); but it is not shown that they did go there, and it is nowhere noticed that (apparently while prisoner and deceased were in this witness' company at the shrine of Nana Meea) witness, as he says, saw from the shrine two men at the well, whose faces he could not distinguish. This is a material feature in the case, as it leads to the conclusion, that if murder were committed, prisoner must have had accomplices waiting to assist him. Yet the Police have failed entirely in tracing any accomplices.

It is next *presumed* that prisoner threw deceased into the well. There is no evidence to prove that he did so. It is *presumed* that he did this with the object of robbing deceased, and that he accomplished that object.

But I am bound to add that it is only *presumed; it is nowhere proved* that a robbery *has* been committed. A box, stated by deceased's brother generally to be one in which the deceased kept his money, was found open, but there is no distinct evidence that it did contain

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money at the time; and as to the ornaments on which deceased is stated to have advanced money on pawn, not one has been traced, nor has any evidence been brought to show that jewels had ever been so pawned by any one to the deceased, and were at the time of his death in his possession. Nor, as I have stated, beyond the appearance of a robbery, is there any substantial proof that a robbery had been committed, or that a single article had been taken away from the house, much less had been traced. The evidence on this point is all *presumptive.*

Prisoner is said to have been seen near the house at 2 P. M. It may be so. He is even said by witness Tar Mahomed (No. 15) to have been seen standing on the ota of the house. I am not inclined to credit this. That a man who had only just before perpetrated a murder, with the object of robbery, as supposed by the evidence, should immediately after, in broad daylight, show himself openly on the very threshold of deceased's house, is not very probable. He would watch his time to enter and to make his exit.

Then, again, the evidence for the prosecution supposes that prisoner returned from this robbery, went to his shop, and afterwards sent for and paid witness Sirdar Khan from a portion of the stolen rupees. But, however disposed as I may be in general to place little weight on trifling inconsistencies in respect to the time of a particular occurrence, as deposed to by different Native witnesses, yet in this case the real discrepancy *is by no means trifling;* and where the life of a man depends upon only presumptive evidence, it is above all essential that discrepancies which tell in his favour should not be lightly passed over.

The evidence of witness Rehmut Khan tallies more, I am bound to say, with that of the witnesses adduced for the defence, than with that of the prosecution. It is

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clear by all accounts that he was sent for by prisoner in order to be paid the Rs. 75, and that some time must have elapsed ere he arrived at prisoner's shop, as he was searched for by the river, and not being found there, was followed to his house, and thence brought to prisoner's shop.

Now it is distinctly deposed by this witness (Rehmut Khan) that the money was paid to him by prisoner as early as 12 *or* 1 *o'clock;* and in this he is confirmed by the evidence of the two witnesses for the prisoner, who he states were present at the shop when he reached it (Moostafa Sheik Ahmed, No. 35, and Janbhaee Chandbhaee, No. 36).

What, then, becomes of the robbery, which, if according to evidence for the prosecution, must have taken place about 2 P. M.? These latter witnesses, who had gone to purchase mats, depose that they afterwards went to the Custom House, and witness No. 35 remarks—"the prisoner having some business there, as he said, went so far with us, and then left us. This would be about 2 P.M."

Finally, there is the suspicious circumstance of the Rs. 300 having been found in the house of prisoner's uncle, which the latter is unable to account for; but there is no evidence whatever to show that prisoner did place it there, or was seen there after the murder. True, it is said he *might* have done so. But here, again, we *presume* that he did it. The fact is not shown, nor is he in any way connected by the evidence with these rupees, or their location on his uncle's premises.

Upon the above considerations, I agree with Mr. Remington, in whose remarks I beg also to express my concurrence that there is not sufficient evidence on the record against prisoner to justify a conviction, and that the prisoner must be consequently acquitted.

Final Resolution of the Sudder Foujdaree Adawlut.—The Court acquit the prisoner, and he is to be discharged.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

BELGAUM.

[Case No. 130 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. A. E. D. GREY, Third Assistant Magistrate of Belgaum, on the 27th October 1854. Tried by Mr. A. W. JONES, Session Judge, on the 28th November 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Rape.

Prisoner.—Basya bin Purupa, Telee, aged 30.

Charge.—Rape (Regulation XIV. A. D. 1827, Section XXIX. Clause 1st); in having, on Sunday the 10th September 1854, (corresponding with Bhadrupud Wud 4th, Shuké 1776,) in the village of Neerulkeree, in the Bagulkote Talooka, in the Belgaum Division of the Dharwar Zillah, violently assaulted and raped Maliowa, wife of Rungapa, of the same village.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with rape, and pleads not guilty.

It appears that the complainant, a young woman who has been blind ever since she was four years old, went out of her house to a short distance for a particular purpose, on the afternoon of Sunday the 10th September, and that she was there taken hold of by some one, and dragged into a house near by, and then forced on the ground and raped. The witness gave her evidence with great apparent reluctance, at least as to describing the assault on her; and from what she said there is no doubt the rape was actually perpetrated. She struggled and screamed, but could not prevent the prisoner from accomplishing his purpose, though it does not appear she was hurt in the course of it. But her screams brought in her sister-in-law, who lives only four doors off, and she says she saw them in a position which leaves no doubt of the truth of the complainant's story. The owner of the house, too, witness No. 3, who came

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home just at this time, deposes to having seen the prisoner come out of her house hastily, and run off, after jumping the low wall which surrounds her house.

Against this evidence there is but the prisoner's denial of the charge, for the evidence of the two witnesses he named to prove his *alibi* appears to have been taken before the Police Amuldar, and to have been unfavourable to this defence. Under these circumstances, and considering there is no reason assigned for making so serious a charge against the prisoner unless it were true, the Session Judge is of opinion that there is sufficient ground for believing it to be true, and accordingly convicts the prisoner of rape; in having, on Sunday the 10th September 1854, (corresponding with Bhadrupud Wud 4th, Shuké 1776,) in the village of Neerulkeree, in the Bagulkote Talooka, in the Belgaum Division of the Dharwar Zillah, violently assaulted and raped Maliowa, wife of Rungapa, of the same village.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXIX. Clause 1st, the following sentence is passed:—

That you, Basya, be imprisoned and kept to hard labour for three (3) years.

* * * * * *

The Assistant Magistrate should have sent up some evidence to show that the charge was made on the day the crime was committed, which might have been done either by the Police Patel, or by the Peon who arrested the prisoner.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Session Judge is to be informed that the Police Patel should have been examined to depose to the general character of complainant for chastity, and that the Magistrate is to be told, that on the complaint being

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laid, the Village Officer ought to have visited the woman, and had her person examined by matrons; also that the evidence for the defence failing, the witnesses should have been examined for the prosecution, as a charge of rape is easily made, and extremely difficult to be refuted, and, consequently, all available evidence should be recorded.

The Court are gratified to observe that *this* case was disposed of without adjournment.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

SHOLAPORE.

[Case No. 100 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. J. F. ARMSTRONG, Acting First Assistant Magistrate, on the 24th October 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 26th October and 9th November 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Making Fraudulent Use of a Document, knowing it to be Forged.

Prisoner.—Timaia wulud Hunmunta, Lonaree, aged 45.

Charge.—Making fraudulent use of a document, knowing it to be forged (Regulation XIV. of 1827, Section XVII. Clause 2nd); in having, on Monday the 6th day of September 1852, (corresponding with Somwar Adhik Bhadrupud Wud 8th, Shuké 1774,) at Hipurga, in the district of that name, and Sholapore Zillah, with the intention of defrauding one Busapa wulud Golupa, who had filed a suit against him on a bond in the Moonsiff's Court, produced a receipt bearing the signature of the said Busapa, in which the figures and letters of 35 maunds and 1259 Fuslee had been altered into 36 maunds and 1260 Fuslee, knowing at the time that the receipt was a forgery.

Finding and Sentence by the Session Judge.—The prisoner is charged with making fraudulent use of a

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document, knowing it to be forged, and pleads not guilty.

It appears that Busapa and the prisoner Timaia wulud Hunmunta, having for many years had dealings in saltpetre, these were, through ' some misunderstanding, brought to a close; and on the 20th February 1850, the former passed to the latter a ' farkhut' or deed of release, specifying, that with the exception of three bonds (two for saltpetre and one for grain), he had no claim against him. Subsequently, on one of these three bonds for 75½ maunds of saltpetre, Busapa filed a suit against the prisoner Timaia wulud Hunmunta, in the Court of the Moonsiff of Hipurga, and the latter then produced as evidence of payment a ' powtee' or receipt, in which the quantity of saltpetre has been altered from 35 to 36 maunds (in order to make it appear to have been passed subsequently to the farkhut), and the year from 1259 Fuslee (A. D. 1849) to 1260 Fuslee (A. D. 1850).

The prisoner does not deny that the receipt has been fraudulently altered, but states it to have been so subsequent to making it over to his Vakeel; and he allows, further, that when he gave it to him, he was fully aware of not having made any payment in saltpetre later than the date of the farkhut, or, consequently, on account of the bond on which the suit had been filed against him.

But his Vakeel Venaik Nursinwab (witness No. 4) positively affirms, that when the powtee was delivered to him by the prisoner, it was precisely in the same state as at present, and that his suspicions being consequently excited, he, before introducing it as evidence in the case, made the prisoner attach his signature to both it and the ' durkhast' with which it was presented.

And as otherwise the Court finds it impossible to believe, either that the prisoner would, knowing he had made no payment in saltpetre since the date of the farkhut, have delivered a powtee or receipt to his

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Vakeel, which, under such circumstances, could be of no use as evidence in the case, or four days subsequently have signed both it and the durkhast with which it was to have been introduced therein, simply because his Vakeel told him to do so, and without knowing what the latter contained, he is convicted of making a fraudulent use of a document, knowing it to be forged; in having, on Monday the 6th day of September 1852, (corresponding with Somwar Adhik Bhadrupud Wud 8th, Shuké 1774,) at Hipurga, in the district of that name, and Sholapore Zillah, with the intention of defrauding one Busapa wulud Golupa, who had filed a suit against him on a bond in the Moonsiff's Court, produced a receipt, bearing the signature of the said Busapa, in which the figures and letters of 35 maunds and 1259 Fuslee had been altered into 36 maunds and 1260 Fuslee, knowing at the time that the receipt was a forgery.

And after maturely considering the nature of the offence committed, and the punishment provided for the same by Clause 3rd, Section XVII. Regulation XIV. of 1827, the following sentence is passed :—

That you, Tamaia wulud Hunmunta, be imprisoned for one (1) year, of which two (2) months to be solitary, and the remainder with hard labour; and that you pay a fine of two hundred (200) rupees, or be further imprisoned with hard labour for one (1) year.

* * * * * *

The forged document was referred to the Magistrate on the 31st January last, from the Civil side of this Court, and the Session Judge considers the delay which has occurred on the part of the Hipurga Police Amuldar in preparing a case against the prisoner Timaia to be extremely reprehensible, and discreditable to that officer.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The petition is rejected.

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The Court concur in the remarks made by the Session Judge on the delay in preparing the case, and request that an explanation be called for.

Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—It is hereby certified to the Sudder Foujdaree Adawlut, that the petition which accompanied the within Precept has been received, and duly delivered to the petitioner.

With reference to the extract from the Court's proceedings of the 10th instant, which has also been duly received and recorded, the Session Judge has the honour to submit the annexed correspondence with the Magistrate on the subject.

Letter from the Session Judge to the Magistrate.—I have the honour to forward, for your information, extract from my proceedings held in the above case, and to be, &c.

Letter from the Magistrate to the Session Judge.—With reference to your letter No. 1082, of the 9th instant, forwarding extract from your proceedings in Case No. 100 of your Calendar, I have the honour to forward, for your perusal, the explanation endorsed thereon by the Acting First Assistant Magistrate Mr. Armstrong, and to request that you will oblige me by informing me whether, in your opinion, this explanation relieves the Hipurga Mamlutdar from the blame which at first appeared to attach to him.

Explanation of the Acting First Assistant Magistrate.—The Assistant Magistrate begs to inform the Magistrate, that the forged document was received in January last, and the Vakeel charged with the forgery committed to the Sessions Court in the month of May last. The case was disposed of in the Sessions Court on 29th June, and instructions were received at the same time by the Assistant Magistrate for the prosecution of the prisoner Timaia (the subject of the Judge's remarks).

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The forged document was not sent, and therefore applied for on the same day. On 8th September the forged document was received, and forwarded to the Police Amuldar, who received it on the 15th. In the mean while, the plaintiff had left for Belgaum, and only returned on the 14th October, on which day the Police Amuldar committed the case to the Assistant Magistrate, who committed it on the 24th, the Dewalee festival having intervened. The Assistant Magistrate trusts that the explanation afforded will be satisfactory as regards the proceedings of the Police Amuldar of Hipurga.

Letter from the Session Judge to the Magistrate.—I have the honour to acknowledge the receipt of your letter No. 618, of November last, and in reply to inform you, that as the prisoner Timaia was the party principally concerned in making use of the forged document, and as it does not appear from the explanation of your Acting First Assistant, Mr. Armstrong, why proceedings were not instituted against him at the same time as against the Vakeel, or why four months should have been requisite to prepare a case against the latter, I do not consider that it exonerates the Hipurga Police Amuldar from blame.

Minute recorded by Mr. A. Remington.—I think the explanation of the Assistant Magistrate is satisfactory, and that it relieves his department in great measure from blame.

The forged document was not returned by the Sessions Court until three months after it was called for, and the delay for which no account is given.

Minute recorded by Mr. M. Larken.—The drift of the Session Judge's remarks seems to be that Timaia should have been prosecuted at the same time as the Vakeel, and that the prosecution of the latter was delayed from the 31st January to May.

We might say, that however wanting in satisfactory

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explanation the endorsement of the First Assistant Magistrate may be, there is apparently a similar defect in accounting for the delay from the end of June to the 8th September, on the part of the Sessions Court.

Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion, that however worthy of blame may have been the delay between January and May, the Hipurga Mamlutdar must be exonerated for not having sooner sent up Timaia's case; for the Session Judge does not controvert the Assistant Magistrate's statement, that the forged document was not sent to him for upwards of two months after he had called for it.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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[Case No. 139 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. A. E. D. GREY, Third Assistant Magistrate of Belgaum, on the 22nd November 1854. Tried by Mr. A. W. JONES, Session Judge, on the 22nd, 23rd, 26th, and 28th December 1854. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoner.—Yela bin Rawana, Mahratta, aged 28.

Charge.—Murder (Regulation XIV. Section XXVI. Clause 1st of 1827); in having, on Thursday the 2nd November 1854, (corresponding with Kartik Shood 12th, Shuké 1776,) in the limits of the town of Beedee, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah, struck, and otherwise ill-used a boy named Narayen bin Balya, of the same place, from the effects of which he, the said Narayen, died the next day.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and pleads not guilty.

It appears, that on Thursday the 2nd November, a

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woman named Ranowa went out to work in the field of one Chenbusapa of Beedee, taking with her a grandson named Narayen, a child of about ten years old. There were working in the same field two women (witnesses Nos. 3 and 4), and two men, relations of Ranowa's. The boy was not working, but played about, and seems to have gone into the next field, where the prisoner was working, and to have cut some grass there. The prisoner, in his statement, says he went up to him, and asked him why he did so, on which the child got frightened, and in running away fell down one of the embankments of the field, and then brought up two women, the witnesses Nos. 3 and 4, who asked him why he had beaten the child. But these witnesses state that they were returning from a nulla close by, when, as they passed the field where the prisoner worked, which is next to Chenbusapa's, they heard some cries, and looking in the direction whence they came, they saw the prisoner holding the child Narayen by the ear, and beating and kicking him, and that when the child fell down the prisoner stood on his stomach.

The witness No. 3 went up and pushed the prisoner off, and on his abusing her, and threatening to strike her with a sickle, her companion (witness No. 4), who was standing behind in the pathway, cried out loudly for assistance, and then the prisoner made off; and the child's grandmother and relations, who were in the next field, came up. Both of these witnesses state that the child was unable to speak when the prisoner made off, and the grandmother says the same; and this account is also confirmed by the mother (witness No. 1), who was sent for, and who carried the child home soon after with her mother.

And it appears the child never spoke at all afterwards, and died on the following day, in the afternoon, when the Police Patel was informed of his death, and that it

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had been caused by the prisoner having beaten him. The Patel immediately sent a Shetsundee to arrest him, and this Shetsundee (witness No. 13) states, that on telling the prisoner the Patel wanted him, he asked "if the boy were dead."

The Inquest Report, proved before the Court, shows that there were bruises or marks of blows on the child's ribs below the chest, and on the stomach.

The prisoner admits that he was in the field, and spoke to the child, and that the two women came up and asked why he had struck the child; but denies having beaten or touched him. But he can give no reason why these witnesses should accuse him falsely, and there is not even the pretence of any ill-will existing between them and himself, and these witnesses are the child's relations; and as the Session Judge can see no reason to doubt their evidence, and is of opinion that it is sufficient to show the child died from the beating inflicted on him by the prisoner, the prisoner is convicted of murder; in having, on Thursday the 2nd November 1854, (corresponding with Kartik Shood 12th, Shuké 1776,) in the limits of the town of Beedee, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah, struck and otherwise ill-used a boy named Narayen bin Balya, of the same place, from the effects of which he, the said Narayen, died the next day.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXVI. Clause 4th of 1827, the following sentence is passed:—

That you, Yela bin Rawana, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

There is nothing to show that this cruel assault was

provoked, and the Session Judge is to be told, that in passing a secondary sentence, he should have stated his reasons for doing so.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

TANNA.

[Case No. 23 of the Criminal Return of the Magistrate of Tanna for November 1854. Tried by Mr. T. C. HOPE, Assistant Magistrate, on the 18th November 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Robbery by Night, with Force; and Aiding in the Commission of Robbery by Night, with Force.

Prisoners.—No. 1, Ramnath Nundlal, Brahmin, aged 24.
2, Huree Abajee oorf Pudum, Simpee, aged 22.
3, Bapoojee Nilajee, Mahratta, aged 32.

Charge.—Against prisoner No. 1, robbery by night, with force (Regulation XIV. of 1827, Section XXXVII. Clause 3rd); and against prisoners Nos. 2 and 3, aiding in the commission of robbery by night, with force (Regulation XIV. of 1827, Section I. Clause 5th); in that, at about 7 P. M. on November 9th, 1854, (corresponding with Kartik Wud 3rd, Shuké 1776,) prisoner No. 1 (Ramnath), in his School, in the town of Panwell, stole from the person of a child (Pilajee Tika) gold and silver ornaments, as described in list No. 3, value Rs. 30, and that prisoners Nos. 2 and 3 were then and there present, aiding him in the commission of the said act.

The prisoner No. 1 pleads guilty, and prisoners Nos. 2 and 3 plead not guilty.

Finding and Sentence by the Assistant Magistrate.—Prisoner Ramnath is convicted on the child's evidence, and his own admission. His recent nine months' imprisonment has made no impression on him. His being a

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schoolmaster, in whom naturally much confidence is placed, also aggravates his guilt. Although he has committed a robbery of far less amount than the last, he must therefore be punished more.

There seems hardly sufficient evidence to convict prisoners Huree and Bapoo, especially as they have made out a sort of an *alibi.* On the other hand, the evidence of the child was, through cross-questioning, given so clearly as to force conviction on the mind; and the position of the parties, as described, was just what would appear probable. Prisoners Huree and Bapoo admit having been at the spot at the time named, and having seen Ramnath. Prisoner Bapoo's assertion, that it was bruited that night that Ramnath was the thief, is evidently false. The assertion by witnesses Nos. 2 and 3, that their evidence was not given in Ramnath's presence, confirms Ramnath's implied accusation of the Joint Police Officer, of favouring prisoners Nos. 2 and 3. The latter are therefore discharged for want of proof, but measures will be taken for preventing their committing robbery in future.

Prisoner No. 1 is convicted, and sentenced to pay a fine of one hundred (100) rupees, or suffer one (1) year's ordinary imprisonment, with hard labour in default, under Regulation XIV. of 1827, Section XXXVII. Clause 3rd. This decision to be subject to the confirmation of the Acting Magistrate, under Regulation IV. of 1830, Section III.

Confirmation by the Acting Magistrate.—Confirmed. Although Huree Abajee has been discharged for want of proof, it seems to me, from the child's evidence, to be almost certain that he was engaged in the robbery, and I am disposed to think he should be dismissed from his appointment as stamp vendor; but before issuing any order on this point, I should like Mr. Hope, as the officer who tried the case, to favour me with his opinion

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as to whether it is morally certain or not that Huree Abajee was a participator in this offence.

Opinion of the Assistant Magistrate.—It is difficult in the present case to separate morals and law. Moral conviction depends upon the moral sense of each separate individual, and the training it may have received. What appears to one person a moral certainty is to another only a probability. The simplicity and probability of the child's statement; the possibility that a person in prisoner's situation would use the arguments prisoner No. 1 says he did, in order to persuade him (viz. that he would set all right with the Foujdar, &c.); the evident partiality shown by the Foujdar to prisoners Nos. 2 and 3; the probability that had they not really been so notoriously guilty, he would never have sent them up at all: all these considerations made me feel morally certain that Huree and Bapoo were guilty; but I thought it hardly possible to convict them on a single statement, and that not on oath. I think that Huree should lose his appointment.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to certify the order to furnish security, of which petitioner complains.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning this Precept within the specified time, the Magistrate of Tanna has the honour to certify a copy of the order to furnish security, of which petitioner complains. The petition which accompanied this Precept is herewith returned.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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TANNA.

[Case No. 100 of the Calendar of the Konkun Sessions Court for 1854. Committed by Mr. G. S. FORBES, Assistant Magistrate, on the 17th November 1854. Tried by Mr. R. KEAYS, Session Judge, on the 4th, 5th, 15th, 19th, 20th, and 22nd January 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoners.—No. 1, Sheik Ebrahim wulud Sheik Jafer *alias* Putlya, Mussulman, aged 40.

2, Sheik Husein wulud Sheik Wujeer, Mussulman, aged 23.

Wilful Murder.

Charge.—Wilful murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in that, on the afternoon of Tuesday the 24th October 1854, (corresponding with Mungulwar, Kartik Shood 3rd, Shuké 1776,) within the boundaries of the village of Kolowlee, Talooka Callian, Zillah Konkun, they purposely, and without justifiable or extenuating cause, deprived Abdoola, son of Lalabhaee, aged about eleven years, of life, by casting him on the ground, and beating him on the head with a stone, from the effects of which he then and there died; and stole from the dead body ornaments of the estimated value of Rs. 6.

Finding and Sentence by the Session Judge.—The prisoner is accused of wilful murder, in the instance set forth in the charge recorded at the head of these proceedings, and has pleaded not guilty.

The report of the Inquest leaves no doubt that the deceased Abdoola was murdered, and the point to be determined is, whether the prisoner at the bar committed that murder.

The outline of the case is, that on the 24th October 1854, the deceased Abdoola left his father's house in the

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morning, to play. As he did not return by 12 o'clock, his father became alarmed, and commenced inquiring about him; but being unsuccessful, he went and informed the Police. For two days no discovery was made, but on the third day the prisoner Sheik Ebrahim, the prosecutor's brother-in-law, called upon the prosecutor, and informed him that he had news of the deceased, on which the prosecutor and Baloo, and one Shaboodeen, accompanied the prisoner, who led the way direct to the Koorbhow Hill, which is situated about a 'koss' from the town of Callian, and when he arrived at a short distance from the spot, pointed out where the dead body was lying. This is clearly proved from the evidence of the above-named three persons, but all that can be deduced from it is that this prisoner knew where the body was.

Now, on the day the deceased was missed, he was last seen in company with the prisoner Sheik Ebrahim, his uncle, with whom he was constantly in the habit of going about. The approver Sheik Husein was also with them, and these three are proved to have gone in the direction of the Koorbhow Hill at about noon of that day.

A short time after this, Sheik Ebrahim is proved by the evidence of witnesses Nos. 9 and 10 to have been seen returning from the direction of the Koorbhow Hill by a bye-path to Callian. His manner was at this time confused, and although he was spoken to by witness No. 10, he gave no reply.

The body having been discovered on the information given by Sheik Ebrahim to complainant, an Inquest was held, and on inquiry being made, it transpired that Sheik Ebrahim, and a person answering the description of Sheik Husein, and subsequently proved to have been him, had been seen going in the direction of the spot where it was found, in company with the child, as detailed above. Sheik Ebrahim was then taken into custody. It is to be here noticed, that the subsequent inquiry was conducted

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by an European Officer. It is therefore certain that no improper measures were resorted to, to induce the prisoner to confess. The next morning, on the clothes of Sheik Ebrahim being examined, they were found to be in several places marked with blood, and then the prisoner Sheik Ebrahim gave a written statement, duly proved in evidence, and recorded No. 22, in which, while he denies having taken an active part in the murder, admits that he was present when it was committed, and that the approver Sheik Husein was also there. This led to Sheik Husein's apprehension, and he immediately admitted that he had been present when prisoner No. 1 (Sheik Ebrahim) committed the murder, pointed out the spot where the murder was committed, and the stone with which it had been perpetrated.

Captain Walker arrived at Callian when this murder was under inquiry, and according to his deposition, on being told that the prisoner Sheik Ebrahim was in the veranda of Mr. Forbes' bungalow, and had confessed to a knowledge of the murder, went out and asked him, "Why did you murder the boy?"—to which he unhesitatingly replied, "For food."

Looking, therefore, at this statement, the blood on the clothes of Sheik Ebrahim, and the circumstance of his having been seen returning from the scene of the murder in a wild and confused manner, the Court considers that sufficient corroboration of the statement of the approver is afforded to justify the conclusion that Sheik Ebrahim committed the murder.

The Court accordingly convicts him of wilful murder; in that, on the afternoon of Tuesday the 24th October 1854, (corresponding with Mungulwar, Kartik Shood 3rd, Shuké 1776,) within the boundaries of the village of Kolowlee, Talooka Callian, Zillah Konkun, he purposely, and without justifiable or extenuating cause, deprived Abdoola, son of Lalabhaee, aged about eleven years, of

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life, by casting him on the ground, and beating him on the head with a stone, from the effects of which he then and there died, and stole from the dead body ornaments of the estimated value of Rs. 6.

Having duly considered the nature of the offence proved against the prisoner, and the amount of punishment allowed for the same under the Regulations, the Court passes the following sentence :—

That you, prisoner Sheik Ebrahim wulud Sheik Jafer *alias* Putlya, be hanged by the neck until dead, at the usual place of execution at Tanna. (Regulation XIV. Section XXVI. Clause 4th of 1827.)

This sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

* * * * * *

Having performed the painful duty of passing the extreme sentence of the law on the prisoner, the Court, in consideration of its having been guided almost entirely by circumstantial evidence in pronouncing the prisoner guilty, respectfully recommends that the sentence be commuted to transportation for life.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

The Session Judge is to be informed, that it was a grave omission not to take the evidence of Dhondo Sonar, if he was to be found, or, on the other hand, not to record his reasons for not taking it; for Dhondo's evidence might have ensured the conviction of both prisoners, without resorting to an accomplice to add weight to the testimony recorded against Sheik Ebrahim.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SHOLAPORE.

[Case No. 62 of the Criminal Return of the Magistrate of Sholapore for December 1854. Tried by Mr. T. C. LOUGHNAN, Magistrate, on the 23rd December 1854. Reviewed by Mr. C. M. HARRISON, Session Judge, on the 25th January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, in conformity to the provisions of Regulation VIII. of 1831, Section III. Clause 3rd.]

Prisoners.—No. 1, Chunbusapa wulud Kuribusapa, Puncham, aged 32.
2, Mutoo wulud Saheb Khan, Mussulman, aged 35.

Misconduct as Police Patel; and Aiding in the same.

Charge.—Misconduct as Police Patel (Regulation XII. of 1827, Section VIII. Clause 1st); in that he did, on the 27th October 1854, (Kartik Shood 6th, Shuké 1776,) in the village of Nad Khond, Talooka Indee, endeavour to persuade complainant, Mulupa wulud Moonipa, to drop a prosecution for theft, promising to get him Rs. 6 to compensate for his loss.

Against prisoner No. 2, aiding in the above (Regulation XIV. of 1827, Section I. Clause 5th); by seconding the persuasion of prisoner No. 1, on the above date, and at the same place, with a view to induce the said complainant to drop the prosecution.

The prisoners plead not guilty.

Finding and Sentence by the Magistrate.—There appears to be very strong suspicion that both prisoners were concerned in the robbery, and, indeed, the Police Officer sent them up as accomplices. There is, however, no positive proof, and therefore the present charge was framed as more likely to admit of proof. Prisoner Chunbusapa is found guilty of misconduct as Police Patel, and sentenced to six (6) months' imprisonment, without hard labour. (Regulation XII. of 1827, Section VIII.)

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Prisoner Mutoo is found guilty of aiding in the above, and is sentenced to three (3) months' imprisonment, without hard labour.

Reviewed by the Session Judge.—It appears from these that the prisoner No. 1 (Chunbusapa), having been convicted of misconduct as a Police Patel, was, under the provisions of Section VIII. Regulation XII. of 1827, sentenced to six months' imprisonment, without hard labour, and No. 2 (Mutoo), convicted of aiding prisoner No. 1 (Chunbusapa) in the above crime, was sentenced to three months' imprisonment, without hard labour.

Misconduct on the part of a Police Officer, being a *personal* and *individual* offence, to which the provisions of Clause 5th, Sect. I. Reg. XIV. of 1827 would not appear applicable, the Session Judge is of opinion that prisoner No. 2 (Mutoo wulud Saheb Khan) has been improperly convicted by the Magistrate of "aiding" in the misconduct of prisoner No. 1 (Chunbusapa) "as Police Patel," and resolves therefore to submit the case for the final orders of the Judges of the Sudder Foujdaree Adawlut.

Letter from the Session Judge to the Sudder Foujdaree Adawlut.—In conformity to the provisions of Regulation VIII. of 1831, Section III. Clause 3rd, I have the honour to transmit herewith an extract from my proceedings in the Case No. 62 of the Magistrate's Calendar for 1854, together with the whole of the papers and proceedings alluded to therein.

Resolution of the Sudder Foujdaree Adawlut.—Prisoner Chunbusapa appears to have been suspected of being concerned in a robbery, and was sent up as an accomplice therein. He was acquitted of the charge; but as it appeared to the Magistrate that he had endeavoured to stifle the complaint, he was subsequently tried and convicted of misconduct as an Officer of Police, in attempting to compromise the matter.

Trivial offences, including theft, may be legally

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compromised; and even supposing the one in question to have exceeded the jurisdiction of a District Police Officer, still, as Chunbusapa was one of the parties whom complainant threatened to prosecute, his attempt to get rid of the complaint was no offence in him. Had he been indifferent to the matter, his attempt to impede the course of justice might have been criminal; but not considering that his conduct can be so construed in this instance, the Court are of opinion that his conviction must be cancelled, as well as that of Mutoo, though not for the reason advanced by the Session Judge in reviewing the case, because so long as the misconduct of a Police Officer is one of the offences to aid in which is penal, the Court cannot concur with the broad ruling of the Court below.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SURAT.

[Case No. 16 of the Criminal Return of the Magistrate of Surat for October 1854. Tried by Rao Bahadoor APAJEE RAMCHUNDER, District Deputy Magistrate, on the 28th October 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Robbery by Night, with Force; and Aiding and Abetting in the same Crime.

Prisoners.—No. 1, Runchore Nathoo, Wagri, aged 30.
2, Deolo Raglo, Dooblo, aged 25.
3, Wusun Gopal, Durjee.
4, Jeewun Bhugwun, Kolee, aged 25.

Charge.—Against prisoners Nos. 1 and 2, robbery by night, with force, of property valued at Rs. 12-5-1. (Regulation XIV. Section XXXVI. of 1827.)

And against prisoners Nos. 3 and 4, aiding and abetting prisoners Nos. 1 and 2 in the above crime. (Regulation XIV. Section I. Clause 5th of 1827.)

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Robbery by Night, with Force; and Aiding and Abetting in the same Crime.

Finding and Sentence by the District Deputy Magistrate.—Nos. 1 and 2 are convicted, and sentenced, under Reg. XIV. Sect. XXXVII. Clause 3rd of 1827, each to suffer one (1) year's imprisonment, with hard labour.

Nos. 3 and 4 are discharged for want of proof, but owing to suspicions against them, they are each required to furnish security for good conduct for one year in the sum of five hundred (500) rupees, or in default to suffer one (1) year's imprisonment, under Regulation XII. Sections XXVII. and XXV. of 1827.

The above sentence is subject to the confirmation of the Magistrate, who confirmed it, but reduced the amount of security to Rs. 200. (Regulation IV. Section III. of 1830.)

Petition of the Prisoners Jeewun Bhugwun and Wusun Gopal to the Sudder Foujdaree Adawlut.—Prisoners Runchore Nathoo and Deolo Raglo stated that we taught them, and sent them to commit robbery; but we have not done so, nor do we know anything of the matter. They have taken our name through enmity. We are sentenced to imprisonment merely on the statements of the above said prisoners, and therefore pray that the papers of our case may be called for, and that we be set at liberty: as we are poor persons, and support ourselves by labour, whence can we furnish security for such an amount? If it be deemed desirable, we will pass a recognizance bond.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—You are hereby requested to certify the papers and proceedings connected with the matter set forth in the accompanying petition from Jeewun Bhugwun and Wusun Gopal, convicts in the Surat Jail, which accompanied the register of petitions handed up by the Acting Assistant Session Judge in charge of Surat on the 24th ultimo, returning this Precept duly executed, or good and sufficient reason why it has not been executed,

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with a report of what you may have done in pursuance hereof, within ten days after its receipt.

You are further desired to return the said petition with this Precept.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In compliance with this Precept, the papers and proceedings connected with the petitioners' case are herewith submitted, and the Precept is accordingly returned duly executed, together with the original petition.

* * * * * *

Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion that the prisoners Jeewun and Wusun have been a sufficient time in imprisonment, in default of furnishing security, and they are to be discharged.

The Magistrate is to be instructed, that if he found himself unable to comply with the Court's requisition for a translation of his Deputy's proceedings, he should have submitted a summary of the evidence in English, and this he is to be requested to do on all similar occasions, and to be reminded that there are few, if any, Zillahs where the Magisterial business is so light as it is at Surat.

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BOMBAY.

Present, ASHNESS REMINGTON, Esq.; METCALFE LARKEN, Esq.; WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case of Gunesh Babjee, a Vakeel in the Sudder Adawlut, whose Sunud has been cancelled.]

A Vakeel's Sunud cancelled.

Translation of a Letter from Huree Junardhun, Vakeel of the Sudder Adawlut, to the address of the Registrar, preferring a Complaint against Gunesh Babjee.—On the 8th instant I received a letter from Narain Kundérow. Ayachit, Vakeel of the Judge's Court at Poona, dated 5th January 1855. In this the

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A Vakeel's Sunnud cancelled.

writer stated that he had sent me on account of the case of Dulé Khan, a 'vakeelputruk' and 'hoondee,' in a cover addressed to Gunesh Babjee, whom he requested to deliver them to me: he also informed me that the hoondee had been cashed, and he therefore asked if I had received it.

I replied that I had not received the hoondee or vakeelutnama, and that I could not make out from what Gunesh Babjee said what had become of the vakeelutnama. I added that I did not know Sukaram Govind, who had received the money on account of the hoondee.

When I asked Gunesh Babjee about the vakeelutnama, he said that he had some recollection of such a paper having been received, but could not say what had become of it. He admitted that Sukaram Govind was an acquaintance and neighbour of his, and frequented his house.

I have also written to Dulé Khan that I did not receive the vakeelutnama in his case, and advised him to come to Bombay about it.

Translation of a Statement from Gunesh Babjee to the Registrar on the subject.—I know Narain Kundérow Ayachit, Vakeel. A letter addressed by him to Huree Junardhun, Vakeel, was received at my house, by my brother Gopal Babjee, about four or five months ago. I was sick at the time, and my brother used to open letters addressed to me. He told me that there was one enclosed for Huree Junardhun, and that it was written in my letter that this was to be given to him. I told my brother to give it to Huree Junardhun, and he told me that he would do so; and afterwards told me that he had done so. My brother went to Poona about a month afterwards, and has not returned. He is now there, and has not been here since. I forgot afterwards, being very ill, all about it, till about eight days ago Huree Junardhun asked me on the subject.

I know Sukaram Govind; he is a neighbour of

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mine, and comes to my house.' I never gave him any hoondee.

Memorandum circulated to the Judges of the Sudder Adawlut by the Registrar.—The Registrar deems it his duty to bring to the notice of the Judges a complaint that has been laid before him by the Vakeel Huree Junardhun, against his brother Vakeel Gunesh Babjee, charging him with misconduct, similar to that for which the sunud of another Vakeel, Gunesh Narayen, was cancelled by the Court on the 24th August 1853.

The statements made by both parties are herewith submitted.

The Registrar begs to add, that a messenger, whom he despatched to the house of the person named Sukaram Govind Ooglay, returned with an intimation that this individual went to Chiploon a month ago, and is not now in Bombay.

Minute recorded by Mr. A. Remington.—It is admitted by Gunesh Babjee that he did receive a letter for Huree Junardhun, and that his brother, who opened the despatch, was desired to deliver it to the party addressed. His plea is, that being sick at the time, he did not open his own letters, and that his brother is now he knows not where.

I presume that Huree Junardhun, whose statement is so far corroborated, produced the letter received from Narain Kundérow, but as the hoondee must have been payable to bearer, it would be as well to ascertain what Narain has to say in respect to the remittance, as well as the client Dulé Khan.

I would make a reference to Poona, and the Registrar might make some inquiry of the Sowkar who paid the money to Chiploonkur.

Further Memorandum by the Registrar.—The Register begs to recirculate these papers, with an original communication he has received from the Judge of Poona,

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enclosing a deposition made by the Vakeel Narain Kundérow Ayachit (of which a translation is submitted), showing that the vakeelutnama, letter, and hoondee were received by Gunesh Babjee or his brother, and that hoondee was cashed by Sukaram Govind, *an acquaintance of Gunesh Babjee, but not of his brother.*

The Registrar sent for Wulub Damodurdas the Sowkar, but this person being in Poona, his Gomashta attended, and allowed the Nazir (sent to his shop for the purpose) to make the accompanying extract from his journal.* He told the Registrar that he had no recollection of having paid the Rs. 5 to Sukaram Punt, and that he is not acquainted with any one of that name.

Minute by Mr. A. Remington.—Gunesh Babjee should be allowed the opportunity of replying to the additional evidence recorded.

Memorandum by the Registrar.—Having sent for Gunesh Babjee, the Registrar gave him the deposition of Narain Kundédow Ayachit to read, and had the entry in the Sowkar's books read and explained to him. He asks him whether he wishes to say anything on the subject, and is allowed twenty-fours to put in a written statement.

Further Memorandum by the Registrar.—Gunesh Babjee has put in a statement, in which he repeats the account given in his first examination of this transaction. A translation, marked F, accompanies. The Registrar recommended Gunesh to procure the attendance of his brother, and his friend Sukaram Punt (who received the money), should he think their evidence might be of service to him. He, however, expressed no intention of adopting the suggestion.

* *Entry in Cash Book of Sumvut* 1910, *at page* 41.

Dr.—Poona Branch, Bhadrupud Wud 13th, Wednesday, in cash paid to Huree Junardhun, at your written intimation, through the hands of Sukaram Govind.....Rs. 5 0 0

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Translation of Gunesh Babjee's Statement, marked F. —The Registrar has showed me a deposition of Narain Kundérow Ayachit, and an extract of the day-book of a dealer in bills of exchange. The Ayachit writes that he sent a letter to the address of Junardhun Seetaram to my care, and that I opened it, after my writing to him for the same. But I do not remember sending the letter after the departure of Junardhun to Poona. My brother Gopal Babjee might have taken it, as it was addressed to my care, and then opened it, either according to the order of Junardhun, or any directions that might have been given in the letter; but I do not recollect this. As I was then sick, my brother used to see my private papers. He opened the letter, and told me it enclosed another, to the address of Huree Junardhun. I told him to send it to him (Huree Junardhun), but I do not know whether he took it himself, or sent it by some one to Huree Junardhun. As I told him to take it to Huree Junardhun himself, it was my belief that he did so. On my now inquiring from Gopal Babjee, it appears that the vakeelutputra and hoondee were given to Sukaram Punt Ooglay, for the purpose of being delivered to Huree Junardhun. The name of Sukaram Punt is mentioned in the day-book as having received the amount of the hoondee. It being plainly stated in the hoondee, that its amount should be received by Huree Junardhun, it does not appear how another person could get the money by fraud. But in the present case, I have not received the amount of the hoondee, nor do I know it. This will appear satisfactory, by referring to the hoondee. Should it be necessary to have further proof about this, the depositions of Sukaram Punt Ooglay, and Gopal Babjee, may be taken, when it will appear satisfactory that I have not committed any fraud, nor do I know how another person committed it. It should be observed, that during the space of twelve years, in which I have been practising

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as Vakeel, I never committed any dishonesty whatever, and I discharged my duties without incurring any blame. Having ordered my brother to deliver the letter to Huree Junardhun, I had no occasion to make inquiry whether it was delivered to him or not; besides, I never heard from Narain again on the subject.

Letter from the Registrar to the Assistant Judge in charge at Poona.—A complaint has been made to me that a Vakeel of the Sudder Adawlut, named Gunesh Babjee, has made away with a hoondee and vakeelutnama, consigned to his care by Narain Kundérow Ayachit, a Vakeel of the Poona Adawlut, for delivery to Huree Junardhun, another Vakeel of the Sudder Adawlut. These papers were on account of one Dulé Khan, who had a petition for a review of judgment before this Court.

It appears that the hoondee, drawn by Rustom Khan Meerday Jagheerdar on Wulub Damodurdas of Bombay, the Hindoo date corresponding to the 24th August last, was cashed in Bombay on the 20th September, by one Sukaram Govind Ooglay, Chiploonkur, for Rs. 5. Huree Junardhun states that he never saw either hoondee or vakeelutnama, and Dulé Khan's petition for review was consequently thrown out in default.

I have, therefore, the honour to request, that you will have the goodness to inquire from Narain Kundérow Ayachit and Dulé Khan, whether they have anything to say in respect to the remittance, and the supression of the vakeelutnama by Gunesh Babjee, and to favour me with any further information you may be able to elicit, that will aid in the investigation of the complaint.

Letter from the Session Judge to the Registrar.—I have the honour to forward the accompanying deposition (taken by the Assistant Judge) of Narain Kundérow Ayachit, which will put you in possession of the information required in your letter No. 160, of the 24th instant, to the address of Mr. White.

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Dulé Khan is absent from Poona.

Translation of a Deposition of Narain Kundérow Ayachit, Vakeel of the Poona Adawlut, by Caste Brahmin, aged about fifty years.—I, being before the Court of the Assistant Judge, remember God, and solemnly affirm, that the evidence which I would give will be true, and I will tell all that I know. I will not give false evidence against the respondent Dulé Khan. The appellant, Tujunkusare, made an appeal to the Judge's Court at Poona. It was admitted, and the claim was proved against Dulé Khan, and the decree of the lower Court was annulled. Against this decision Dulé Khan presented a special appeal to the Judge, to be handed up to the Sudder Dewanee Adawlut, and his Mookhteear brought to me a hoondee of Rs. 5, with a vakeelputru, in the name of Huree Junardhun, Vakeel of the Sudder Dewanee Adawlut, for the purpose of sending the same to him. I accordingly sent the vakeelputru and the hoondee for Rs. 5 to my Karkoon Junardhun Seetaram Dunduvutay, in Bombay, in view to deliver the same to Huree Junardhun, Vakeel of the Sudder Adawlut; but Junardhun, before my letter reached him, left Bombay for Poona, and the packet which contained the vakeelputru and hoondee was sent to the house of Gunesh Babjee Satay, Vakeel of the Sudder Adawlut, as the aforesaid Danduvutay, my Karkoon, resided there. It was written on the packet, that it was to be delivered to Junardhun Seetaram, at the residence of Gunesh Babjee Satay, Vakeel at Bombay. Hence the reason of the packet addressed to my Karkoon going to Gunesh Babjee, Vakeel. In consequence of which, he wrote me, asking what was to be done with the packet, addressed to my Karkoon Seetaram. In answer, I wrote to him that the packet contained a hoondee and a vakeelutnama, and a letter to Huree Junardhun, and asked him to deliver the three papers to him (Huree Junardhun). He, however, did not write to

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me whether he delivered the papers to Huree Junardhun or not. Afterwards, the special appeal of Dulé Khan was struck off in consequence of his non-attendance, as stated in the Precept recorded at the Poona Zillah, and as I was Vakeel on the part of Dulé Khan in the Poona Adawlut, I was informed to the above effect; the name of the Mookhteear of Dulé Khan I do not recollect, but I told him what had happened. I wrote to Huree Junardhun, Vakeel, stating that a vakeelputru in his name, and a hoondee for Rs. 5, and a letter to his address, had been sent to Gunesh Babjee, Vakeel, and inquired how was it that the special appeal was struck off, on the grounds of the non-attendance of the party. In answer, he wrote me that he never received the vakeelputru, or the hoondee, or letter, in the case of Dulé Khan. I again wrote to Gunesh Babjee Satay, Vakeel, asking how was it that in the case of Dulé Khan the vakeelputru and the hoondee were not delivered to Huree Junardhun, but he sent me no answer. His brother Gopal Babjee, who is at Poona, came and said that a letter was received by Gunesh Babjee, stating that in the case of Dulé Khan a hoondee and vakeelputru were given to Sukaram Punt, for the purpose of delivering the same to Huree Junardhun, and that he received the rupees, after writing on the hoondee contents received, Gunesh Babjee being sick at the time, and therefore the hoondee and vakeelputru were given to Sukaram Punt, for the purpose of delivering the same (to Huree Junardhun). Upon inquiry, it was found that he did not deliver the papers to Huree Junardhun. I do not know Sukaram Punt; Gunesh Babjee may know him.

Resolution of the Sudder Foujdaree Adawlut.—There is only the word of Gunesh Babjee that his friend Sukaram Punt acted independently in the matter, and appropriated the contents of the hoondee; but even if it was so, the conduct of this Vakeel throughout the transaction

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shows such complicity on his part, that the Court do not think, with the case quoted by the Registrar in their recollection, they can allow him to retain his sunud as Pleader, and it is cancelled accordingly.

Notice to be sent to all the parties on whose account Gunesh Babjee has filed vakeelutamas.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 58 of the Calendar of the Ahmednuggur Sessions Court for 1854. Committed by Mr. W. J. TURQUAND, Acting Joint Magistrate of Nassick, on the 28th June 1854. Tried by Mr. J. W. WOODCOCK, Session Judge, on the 10th, 11th, 12th, 13th, 16th, 17th, and 18th October 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners Sudoo wulud Rama, and thirteen others.]

Prisoners.—No. 1, Sudoo wulud Rama, Bheel, aged 30.
2, Sukaram wulud Jeewajee, Koonbee, aged 40.
3, Sunkrojee wulud Gungajee, Nhavee, aged 45.
4, Khundoo wulud Yesoo, Bheel, aged 25.
5, Gungia wulud Sunkrojee, Nhavee, aged 22.
6, Jeewa wulud Seewa, Kolee, aged 35.
7, Anajee wulud Seewa, Kolee, aged 30.
8, Anajee wulud Lhanoo, Bheel, aged 20.
9, Luximon wulud Huree, Koonbee, aged 29.
10, Hoosein wulud Sheik Alee, Mussulman, aged 40.

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Prisoners.—No. 11, Dhondee wulud Mookojee, Kauri, aged 17.
12, Vitoo wulud Nimbajee, Kolee, aged 27.
13, Sahadoo wulud Khundoo, Kolee, aged 35.
14, Nowsa wulud Deyoo, Kolee, aged 30.
15, Dhurma wulud Abajee, Thakoor, aged 35.
16, Bhoroo wulud Jakhoo, Thakoor, aged 22.
17, Bhowanee wulud Balaram, Purdésee, aged 35.
18, Seewia wulud Huree, Koonbee, aged 24.
19, Seewa wulud Rama, Bheel, aged 35.
20, Bawajee wulud Thumajee, Koonbee, aged 41.
21, Kasee wulud Mal Patel, Koonbee, aged 35.
22, Sumbhoo wulud Mal Patel, Koonbee, aged 40.
23, Vitoo wulud Sutwa, Kolee, aged 25.

Charge.—Against prisoners Nos. 1 to 19, gang robbery by night, with force (Regulation XIV. A. D. 1827, Section XXXVI. Clauses 1st and 3rd); in having, at about 10 o'clock in the night of Tuesday the 21st February 1854, (corresponding with Magh Wud 9th, Shuké 1775,) at the village of Mhusoorlee, Talooka Kownaee, Sub-Collectorate Nassick, Zillah Ahmednuggur, together with Bhowanee Bheel, not yet apprehended, attacked complainant Hemraj wulud Sheoram Marwaree's house, forcibly entered it, and robbed therefrom gold and

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silver ornaments, cash Rs. 793, cloth, pots, &c. in all amounting to about Rs. 1,190-5-0; also burnt some clothes, of the estimated value of Rs. 20-12-0, some bonds and accounts, value unknown, and upset two or three 'boodlees' (leathern bottles) of oil.

And against prisoners Nos. 20 to 23, aiding in, and concealment before the fact of, the aforesaid robbery (Regulation XIV. A. D. 1827, Section XXXVI. Clauses 1st and 3rd, and Section I. Clause 5th); in having, previous to the night of the robbery, *i. e.* 21st February 1854, at Moujé Nandoor Wyd, Talooka Kownaee, Sub-Collectorate Nassick, Zillah Ahmednuggur, provided the robbers with the necessary information about the house robbed, and also, though aware that the robbery was about to be perpetrated, neglected to inform the Government Authorities of the same. And prisoner No. 23 (Vitoo wulud Sutwa) in having, on the day of the 21st February 1854, in the aforesaid village of Nandoor Wyd, assisted the assembling of the robbers, by conveying their messages to each other, and also, he being aware that the robbery was about to be committed, neglected to give information thereof to the Government Authorities.

The above charges are read over and explained to the prisoners, and they, being asked whether they plead guilty or not guilty, plead not guilty.

Finding and Sentence by the Session Judge.—The robbery took place on the 21st February 1854. The Police Karkoon of Talooka Kownaee got information of it the following day, and commenced making search for the robbers; and on the 23rd February he received a report from the Police Patel of Nandoor Wyd, that Sudoo wulud Rama had been absent from his village from the 13th February without leave, and had not returned till the 22nd February, on which day the Police Karkoon made a report. Upon receiving this report, the Police Karkoon sent and made Sudoo prisoner, and on ques-

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tioning him with regard to the robbery, he confessed that he had been engaged in it, and gave the names of many of his accomplices; and one of these men, Gungia, (prisoner No. 5) mentioned the names of several others, and upon the information given by these two men the whole gang was seized. Many of them confessed, and produced the stolen property which had fallen to their several shares. Sudoo wulud Rama (prisoner No. 1) confessed before the Police Karkoon and Police Amuldar, but denied before the Acting Joint Magistrate, and again before the Sessions Court he denied his previous confession. This, however, has been corroborated by the fact of his absence from his village without leave for eight days before the robbery, and his return to his village the day after the robbery. He now in his defence sets up a plea that he had gone to bring his wife. This plea, however, cannot be admitted, as he did not say a word to the Police Karkoon about it; and if he had had occasion to leave his village for such a purpose, he could easily have got permission to do so, had he asked for it; and he cannot prove that he left his village on this account. It is proved, from the evidence of witnesses Nos. 7, 12, and 13, that Rs. 89-10-0 were taken from him: Rs. 8-10-0 were in his turban, and the other Rs. 81 were found buried in his house. He admitted that Rs. 24 of this was his share of the stolen property, and the rest his own property, but he has failed to prove that he was possessed of so much money; the probability is that he had not even food to eat before the robbery.

The confession of prisoner No. 2 (Sukaram wulud Jeewajee), made before the Police Karkoon and the Police Amuldar, and denied before the Acting Joint Magistrate and the Sessions Court, is corroborated by the following facts:—A new 'khadee' was found in his house, which is identified by witnesses Nos. 4 and 5; Rs. 40 were found buried in a 'konara' (a recess in the wall) of his house,

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in the place pointed out by him, as proved by the evidence of witnesses Nos. 7, 12, and 13, which he said was his own and his son's share of the stolen money. He said that he had bought a bullock from Rama Sootar (witness No. 17), for which he had paid Rs. 10-8-0 ready money, and had given him besides a 'gursol' (female bead necklace), with 'pootlee' attached to it. The money, &c. were taken from Rama, and he deposes that he received them from Sukaram. Prisoner calls two witnesses (Nos. 49 and 50) to prove this, but they say they never saw prisoner's wife wearing a gursol and pootlee, and prisoner dispenses with the evidence of a witness (Bhoma Kajlia) who he at first wished to call to prove that he had sold him four posts for Rs. 10-8-0, which money he had paid to Rama Sootar.

The confession of Sunkrojee wulud Gungajee (prisoner No. 3), made before the Police Karkoon and Police Amuldar, but denied before the Acting Joint Magistrate and the Sessions Court, is thus far corroborated. He confessed that he and his son Gungia (prisoner No. 5) had each got Rs. 22 as their share of the stolen money. Rs. 14 were found by witnesses Nos. 7, 12, and 13 buried under a stone in his house, which he (prisoner) admitted was a part of the stolen money, as also Rs. 15 which he had paid to Vitoo Jadhow (witness No. 8), and that he had paid Rs. 15-4-0 to Teekaram Wanee (witness No. 10), which was money he had in his house, the price of some ghee he had sold; but he cannot prove that he had any ghee to sell, and he cannot account for the rest of the money. He calls two witnesses, Mhad Patel and Bhow Patel, who he said could prove that this money had been obtained by the sale of some 'mal' he had in his house. Mhad Patel (witness No. 51) deposes that prisoner never sold any mal, or received any money in his presence, and the other witness prisoner dispenses with.

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The confession of Kkundoo wulud Yesoo (prisoner No. 4), made before the Police Amuldar of Talooka Kownaee, was denied before the Acting Joint Magistrate and the Sessions Court. In his house was found a washed khadee, which is identified by witnesses Nos. 4 and 5, and Rs. 19, tied up in a rag, were taken out of the 'chupper' of his house by witnesses Nos. 7, 12, and 13, into which he said he had thrust them. He admitted that a new khadee and Rs. 20 had fallen to his share, and the khadee he said he had washed; and that he had bought some grain from Sudoo (prisoner No. 1), for which he had paid him Rs. 1, thus accounting for the Rs. 20. In his defence, he urges that the money and khadee are his own, and that Trimbukjee Naique beat him, and extorted his confession, but he does not attempt to prove any of these assertions.

The confession of Gungia wulud Sunkrojee (prisoner No. 5), before the Police Amuldar of Talooka Kownaee, was denied before the Acting Joint Magistrate and the Sessions Court. His confession was to the effect that he and his father (prisoner No. 3) went to the robbery, and that they had each got Rs. 22 as their share; that the Rs. 22 which had fallen to his share he had made over to his father, who had paid Rs. 15 to Vitoo Jadhow, and Rs. 15-4-0 to Teekaram. That he does not know what his father did with the rest of the money. Sooratram (witness No. 6) says he recognised this man, who beat him, but the Court remarks that his evidence cannot be relied upon, as he had never seen prisoner before, and he admits that only his eyes and nose were visible. Although none of the stolen property was actually found in possession of this prisoner, yet the Court observes that upon his and Sudoo's confessions the whole thing was brought to light, and Vitoo Jadhow and Teekaram Wanee produced the money, which had been paid to them by his father, prisoner No. 3 (Sunkrojee). He now sets

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up a defence that the money was his father's and his own 'milkut' (property), but he does not give any proof of this.

The confession of Jeewa wulud Seewa (prisoner No. 6), made before the Police Karkoon and the Police Amuldar, was denied before the Acting Joint Magistrate and the Sessions Court. His confession was to the effect that he had gone to the robbery, and before witnesses Nos. 7, 12, and 13 he admitted that the Rs. 21 which had fallen to his share he had buried in a nulla in the Khurbooj Waree, where he was taken by witnesses Nos. 13 and 14, and in their presence dug up the money. In his defence, he urges that this money, which was the price of some of his own tobacco, which he had sold, was taken out of his turban by the Peons who seized him on his return to his village from Nassick; but of this he does not give any proof.

The confession of Anajee wulud Seewa (prisoner No. 7), brother of prisoner No. 6, is not forthcoming, having been lost either in the Police or Magisterial Department; but he confessed in the presence of witnesses Nos. 7, 12, and 13, that Rs. 22 had fallen to his share, which he had buried in the nulla of the Khurbooj Waree, from whence he dug them up in presence of witnesses Nos. 13 and 14. In his defence, he urges that the money, which he had got by the sale of some mal, was taken out of his turban; but of this he does not give any proof, and the Court remarks it is not at all likely that either he or his brother would carry so much money in their turbans, or, indeed, that they would have any money to carry.

The confession of Anajee wulud Lhanoo, Bheel (prisoner No. 8), made before the Police Karkoon and the Police Amuldar, was denied before the Acting Joint Magistrate and the Sessions Court. It was to the effect that he was in the robbery; that Rs. 20 and a new khadee had fallen to his share; that he owed Rs. 1 to Sudoo, which he had paid him out of the Rs. 20; that the

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remaining Rs. 19 had been found in the chupper of his house.

The confession of Luximon wulud Huree (prisoner No. 9), made before the Police Karkoon and the Police Amuldar, was denied before the Acting Joint Magistrate and the Sessions Court. The border of a turban, and Rs. 23, were found in the chupper of his house by witnesses Nos. 7, 12, and 13, and he admitted they were a part of the stolen property. Hemraj (witness No. 4) deposes that the 'pudder' belongs to his Gomashta, Kuneeram (witness No. 7), but Kuneeram does not identify it. Prisoner now sets up a defence that the pudder and Rs. 23 are his own, and not stolen property. He brings witnesses to try and prove this, but the Court considers that he has failed to establish anything thereby.

Hoosein wulud Sheik Alee (prisoner No. 10) did not confess, and nothing was found in his house. There is not any evidence against him.

Dhondee wulud Mookojee (prisoner No. 11) confessed before the Police Karkoon and the Police Amuldar, but denied his confession before the Acting Joint Magistrate and the Sessions Court. Rs. 21 were found in his house, as proved by the evidence of witness No. 15, which he said were a part of the stolen property which fell to his share. Sooratram (witness No. 6) deposes that he recognized this prisoner, who had a torch in his hand, and that he had on his wrist a silver 'kura,' which is now before the Court, and that the man was short; that only his nose and eyes were exposed. One witness (No. 55) deposes, that the kura was taken from prisoner's younger brother.

In his defence, prisoner states that the money, pootlee, and kura taken from him are his own, and he brings two witnesses, one of whom (No. 55) deposes, that in last Magh he bought two cows from prisoner, for which he paid him Rs. 20 ready money, and in about a

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month afterwards prisoner was apprehended; that a pootlee was taken from his mother, and a kura was taken off the wrist of his younger brother. Witness No. 56 deposes, that he saw witness No. 55 buy the two cows from prisoner, and pay him Rs. 20. The Court remarks, that even if prisoner had got Rs. 20 for his two cows, it is not likely he would have kept this money so long, and there was no reason for concealing it.

Vitoo wulud Nimbajee (prisoner No. 12) confessed before the Police Karkoon and Police Amuldar, and he took Rs. 15 out of his house in presence of witnesses Nos. 7 and 13, which he said were his share of the stolen property, and that he had bought a 'tambia' for Rs. 1, which is before the Court. In his defence, he urges that he was not in the robbery, and he brings one witness (No. 5) to try and prove that the Rs. 15 belong to him. He deposes, that in the month Posh, before prisoner was seized, he paid prisoner Rs. 7 for some 'salee' (rice in the husk), that he took from him salee of the value of Rs. 6, and that Rs. 1 remains with him. The Court remarks, that it is not likely prisoner would have kept the money and not have spent it, and he does not give any evidence about the other Rs. 9.

The confession of Sahadoo wulud Khundoo (prisoner No. 13), made before the Police Karkoon and Police Amuldar, is denied before the Acting Joint Magistrate and the Sessions Court. He stated that he was in the robbery, and that of the money which fell to his share he paid to Boodharam Marwaree Rs. 10, and Rs. 5 to some Wurarays, for setting up a field embankment, and the rest of the money he spent; but he does not give any proof of this. Nothing was found in his house, and his confession is not corroborated.

The confession of Nowsa wulud Deyoo (prisoner No. 14), made before the Police Karkoon and Police Amuldar, is denied before the Acting Joint Magistrate

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and the Sessions Court. He stated that he was in the robbery, that Rs. 20 had fallen to his share, of which he had paid Rs. 12 to Boodharam Marwaree, and that the rest he had expended in the funeral ceremonies of his deceased brother. He cannot bring any proof of this.

The confession of Dhurma wulud Abajee (prisoner No. 15), made before the Police Karkoon and Police Amuldar, is denied before the Acting Joint Magistrate and the Sessions Court. He stated that he was in the robbery, and that Rs. 10 had fallen to his share. Witnesses Nos. 15 and 16 depose that Rs. 10 were buried under the ground in his house, which he produced. He sets up in his defence, that the Rs. 10 are his own, and he brings two witnesses (Nos. 58 and 59), who depose, No. 58 that in the month Magh last he bought a cow from prisoner, for which he paid him Rs. 3-4-0 ready money, and a 'gangree' (blanket), value 12 annas, and witness No. 59 deposes that witness No. 58 paid prisoner Rs. 4 ready money for the cow: thus their evidence, the Court remarks, is conflicting.

The confession of Bhoroo wulud Jakhoo (prisoner No. 16), made before the Police Karkoon and Police Amuldar, is denied before the Acting Joint Magistrate and the Sessions Court. He said he had been in the robbery, and he took Rs. 10 out of his house, in presence of witnesses Nos. 15 and 16. He sets up a defence that the money is his own, got by the sale of a bullock. He brings two witnesses (Nos. 59 and 60). Witness No. 59 deposes that a year and a month ago, in the month of Bhadrupud, prisoner sold to witness No. 60 two bullocks for Rs. 21, and that Bheewa paid him Rs. 21, Company's ready money, for the bullocks. Bheewa (witness No. 60) deposes that two years ago, in the month of Bhadrupud, he bought two bullocks from Bhoroo, for which he paid him Rs. 21-8-0 ready money, and that he resold the same two bullocks to another man a year ago: thus

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the evidence of these two men, the Court remarks, is conflicting.

The confession of Bhowanee wulud Balaram (prisoner No. 17), made before the Police Amuldar of Talooka Kownaee, is denied before the Acting Joint Magistrate and the Sessions Court. He admitted before witnesses Nos. 13 and 15 that he was in the robbery, and that he had given Rs. 20 to prisoner No. 19 (Seewa wulud Rama). There is not any corroboration of this, as Seewa denies that he received any money from him.

The confession of Seewia wulud Huree (prisoner No. 18), made before the Police Karkoon and Police Amuldar, is denied before the Acting Joint Magistrate and the Sessions Court. He stated that he was in the robbery, and that he had got Rs. 24 as his share of the stolen property. Rs. 10 were found buried in the wheat bran of his 'kula,' and the rest he said he had spent. He sets up in his defence that the Rs. 10 are his own, and that he was beaten, and his confession extorted from him; but he does not give any proof of this.

There is no confession of Seewa wulud Rama (prisoner No. 19), but witness No. 5 says he was in the robbery, and that he had a 'dhop' (long straight sword) in his hand; but the Court remarks, that as witness had never seen this man before, it is not likely he could bear his features in remembrance. A washed khadee was found in his house, which complainant says belongs to him, but prisoner says all the things found in his house are his own.

There is not any evidence against Bawajee wulud Thumajee (prisoner No. 20), Kasee wulud Mal Patel (prisoner No. 21), Sumbhoo wulud Mal Patel (prisoner No. 22), and Vitoo wulud Sutwa (prisoner No. 23), neither did they make any confession.

The crime not having been proved against prisoners Hoosein wulud Sheik Alee (No. 10), Bawajee wulud

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Thumajee (No. 20), Kasee wulud Mal Patel (No. 21), Sumbhoo wulud Mal Patel (No. 22), and Vitoo wulud Sutwa (No. 23), they are acquitted, and directed to be discharged.

The confession of prisoners Sahadoo wulud Khundoo (No. 13), Nowsa wulud Deyoo (No. 14), Bhowanee wulud Balaram (No. 17), and Seewa wulud Rama (No. 19), do not receive that degree of corroboration which would warrant the Court in finding them guilty of the crime. They are therefore acquitted; but as great suspicion attaches to them, the Court hands them over to the Acting Joint Magistrate, for such precautionary measures as he may think proper to adopt regarding them.

The prisoners from No. 1 to 9—Sudoo wulud Rama, (No. 1), Sukaram wulud Jeewajee (No. 2), Sunkrojee wulud Gungajee (No. 3), Khundoo wulud Yesoo (No. 4), Gungia wulud Sunkrojee (No. 5), Jeewa wulud Seewa (No. 6), Anajee wulud Seewa (No. 7), Anajee wulud Lhanoo (No. 8), Luximon wulud Huree (No. 9), Dhondee wulud Mookojee (No. 11), Vitoo wulud Nimbajee (No. 12), Dhurma wulud Abajee (No. 15), Bhoroo wulud Jakhoo (No. 16), and Seewia wulud Huree (No. 18), are found guilty on their own confessions, and the evidence of the witnesses, of gang robbery by night, attended with force; in having, at about 10 o'clock in the night of Tuesday the 21st February 1854, (corresponding with Magh Wud 9th, Shuké 1775,) at the village of Mhusoorlee, Talooka Kownaee, Sub-Collectorate Nassick, Zillah Ahmednuggur, together with Bhowanee Bheel, not yet apprehended, attacked complainant Hemraj wulud Sheoram Marwaree's house, forcibly entered it, and robbed therefrom gold and silver ornaments, cash Rs. 793, cloth, pots, &c. in all amounting to about Rs. 1,190-5-0; also burnt some clothes of the estimated value of Rs. 20-12-0, some bonds and accounts,

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value unknown, and upset two or three boodlees (leathern bottles) of oil; and the Court passes the following sentence, under Regulation XIV. Section XXXVII. Clause 1st, A. D. 1827:—

That you, Sudoo wulud Rama, Sukaram wulud Jeewajee, Sunkrojee wulud Gungajee, Khundoo wulud Yesoo, Gungia wulud Sunkrojee, Jeewa wulud Seewa, Anajee wulud Seewa, Anajee wulud Lhanoo, Luximon wulud Huree, Dhondee wulud Mookojee, Vitoo wulud Nimbajee, Dhurma wulud Abajee, Bhoroo wulud Jakhoo, and Seewia wulud Huree, be each imprisoned and kept to hard labour for the period of three (3) years.

It appearing that the loss sustained by complainant Hemraj wulud Sheoram Marwaree, of Mhusoorlee, Talooka Kownaee, Zillah Ahmednuggur, was about Rs. 400, it is ordered, that putting aside the property in evidence before the Court, valued at Rs. 253-8-0, which is proved to have belonged to him, the remaining sum, viz. Rs. 146-8-0, required to make up the balance of Rs. 400, is to be recovered from you jointly and severally, as a fine, under Act No. XVI. of 1850, which, if not forthwith paid, is to be levied from you by distress and sale of your goods.

Resolution of the Sudder Foujdaree Adawlut.—There being no proof that the confession alleged to have been made by Anajee wulud Seewa (prisoner No. 7) was lost, the secondary evidence furnished by the witnesses Nos. 7, 12, and 15, that he admitted his guilt, cannot be received, and his conviction must be annulled, as well as that of prisoners No. 8 (Anajee wulud Lhanoo), No. 9 (Luxi- wulud Huree), No. 11 (Dhondee wulud Mookojee), No. 12 (Vitoo wulud Nimbajee), No. 15 (Dhurma wulud Abajee), No. 16 (Bhoroo wulud Jakhoo), and No. 18 (Seewia wulud Huree), their confessions not being sufficiently corroborated.

The Session Judge is to be told, that the sentence

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awarded was scarcely adequate to the very serious offence of which he convicted the prisoners.

The petition of the other prisoners is rejected.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

SURAT.

[Case No. 59 of the Calendar of the Surat Sessions Court for 1854. Committed by Rao Bahadoor VENAEK GUNESH, Deputy Magistrate, on the 12th December 1854. Tried by Mr. H. HEBBERT, Acting Session Judge, on the 30th December 1854, and 2nd January 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Murder.

Prisoners.—No. 1, Nuthwa Suda, Bhurwar, aged 30.
2, Doolbha Duyalia, Bhurwar, aged 20.
3, Khooshalia Dewa, Bhurwar, aged 30.
4, Kulia Bhoolia, Bhurwar, aged 30.

Charge.—Murder; in having, at about 10 P. M. on Tuesday the 10th of Kartik Shood, Sumvut 1911, (corresponding with the 31st October 1854,) within the bounds of Moujé Esunpore, Talooka Koorsud, Zillah Surat, without justifiable or extenuating cause, deprived one Lala Guna of his life, by striking him with heavy sticks on his head, while he was asleep, from the effects of which the said Lala then and there died.

The prisoners each and all plead not guilty.

Finding and Sentence by the Acting Session Judge.—It appears the deceased in this case was sleeping with his flock on the night recited in the charge, and whilst so asleep was murdered. The only person who was near at the time was his servant Bhapo (witness No. 5). He has deposed, that he saw four men go up to his master and assault him, on which he ran away, but was pursued by one of the assailants, whom, from his voice, he

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identified as the prisoner Khooshalia (No. 3). The Court, however, questions the latter part of his statement, seeing he did not mention Khooshalia's name, either to the Police Patel of Esunpore (witness No. 6), or to the Members of the Inquest. He seems to have suspected Khooshalia, since it was the information given by him which led to his and the other prisoners' apprehension; and their subsequent confessions confirming the correctness of his impression, the Court believes he has been induced to speak more positively on the point than he ought. The only other witness who has given evidence against the prisoners is Moria (No. 7). He has deposed they left their flocks late on the night in question, and that in the morning two of them, Nuthwa and Khooshalia (prisoners Nos. 1 and 3), admitted to him that they had in the interval been and murdered the deceased. But, besides the above, there are the prisoners' confessions. In these they one and all detail the circumstances under which they committed the crime under investigation. They made these confessions first before the Joint Police Officer of Koorsud; they then confirmed them before the Police Amuldar, and again before the Deputy Magistrate. Now, before this Court, they repudiate them, and declare they were extorted. There seems, however, to be no reason for believing they were obtained by unfair means. Had they been so, the prisoners would doubtless have denied them before the Deputy Magistrate. These confessions, however, must of course be taken as a whole; and it is to be observed, that whilst Nuthwa and Doolbha (prisoners Nos. 1 and 2) admit they went with the intention of killing the deceased, Khooshalia (prisoner No. 3) only admits an intention of beating him short of his life; whilst Kulia (prisoner No. 4) admits that he was present by compulsion, and was an unwilling participator to any extent in the assault in question. The three first

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assign the motive of their conduct to have been this, that the deceased was a wizard. The last does not admit any knowledge of their motive at all. Again, it is to be observed, that whilst Nuthwa and Doolbha (prisoners Nos. 1 and 2) admit they took an active part in the murder, Khooshalia (prisoner No. 3) does not do so, but asserts he merely stood in a position to prevent Bhapo (witness No. 5) going to his master's assistance. The Court considers the conduct of these three prisoners throughout fully shows, that whatever may have been their belief regarding the deceased being a wizard, still they were thoroughly conscious that in murdering him they were offending against the law.

Such being the nature of the proof adduced, the Court is of opinion the charge, as against Kulia Bhoolia (prisoner No. 4), is not established—he is therefore discharged; but that against the other prisoners, Nuthwa Suda, Doolbha Duyalia, and Khooshalia Dewa (Nos. 1, 2, and 3) it is so. They are therefore convicted, accordingly, of murder; in having, at about 10 P. M. on Tuesday the 10th of Kartik Shood, Sumvut 1911, (corresponding with 31st October 1854,) within the bounds of Esunpore, Talooka Koorsud, Zillah Surat, without justifiable or extenuating cause, deprived one Lala Guna of his life, by striking him with heavy sticks on his head, while he was asleep, from the effects of which the said Lala then and there died.

Bearing in mind the character of their respective confessions, as above, the Court passes on the prisoners convicted, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut, the following sentence :—

That you, Nuthwa Suda, and Doolbha Duyalia, be hanged by the neck till dead, at the usual place of execution in Surat; and that you, Khooshalia Dewa, be transported beyond seas for the term of your natural life, under Reg. XIV. of 1827, Sect. XXVI. Clause 4th.

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Minute recorded by Mr. A. Remington.—I would confirm the conviction, and sentence the prisoners to transportation, as I am unable to recognize the distinction made by the Session Judge in favour of Khooshalia, to whom he awarded a secondary punishment.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed, and all the prisoners are sentenced to be transported for life.

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NASSICK.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 43 of the Calendar of the Ahmednuggur Sessions Court for 1854. Committed by Mr. W. J. TURQUAND, Acting Joint Magistrate of Nassick, on the 13th March 1854. Tried by Mr. J. W. WOODCOCK, Session Judge, on the 24th, 25th, and 28th July, 18th August, and 7th and 11th October 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners Yesoo wulud Suya, Gungia wulud Naojia, and and Gungia wulud Pursia.]

Prisoners.—No. 1, Yesoo wulud Suya, Bheel, aged 22.
2, Gungia wulud Naojia, Mang, aged 27.
3, Gungia wulud Kesoo, Mang, aged 30.
4, Gungia wulud Pursia, Mang, aged 30.
5, Maya wulud Duya, Mang, aged 40.
6, Sukaram wulud Sutwajee, Koonbee, aged 40.
7, Narain wulud Abajee, Koonbee, aged 32.
8, Khundoo wulud Huree, Mang, aged 48.

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Charge.—Against prisoners Nos. 1 to 5, gang robbery by night, with force (Regulation XIV. A. D. 1827, Section XXXVI. Clauses 1st and 3rd); in having, at about 8 o'clock P. M., on the night of Friday the 28th October 1853, (corresponding with Ashwin Wud 11th, Shuké 1775,) in company with several others, not yet apprehended, armed with swords, axes, and sticks, forced an entrance into the house of Boodhajee wulud Lukmeechund, Marwaree, in Mujré Duruswaree, Moujé Pimplud Doomala, Péta Chandore, Talooka Chandore, of the Sub-Collectorate of Nassick, Zillah Ahmednuggur, by breaking open the doors with stones and axes, and seriously assaulted the said Boodhajee, and robbed from him property, consisting of ornaments, cloth, and Rs. 100 in cash, &c. altogether to the value of about Rs. 779-8-0.

Prisoners Nos. 6, 7, and 8 (Sukaram, Narain, and Khundoo) are charged, under the afore-quoted Regulation, Section, and Clauses, and Section I. Clause 5th—prisoner No. 6 (Sukaram) with instigating to, and abetting in, the aforesaid gang robbery; in having, for about six months previous to the robbery, proposed to commit it, and sent for and instigated the prisoners, and provided them with food, and sticks, and led them to the house where the robbery was committed.

And prisoners Nos. 7 and 8 (Narain and Khundoo) are charged, under the aforesaid Regulation, Sections, and Clauses, with concealment before and after the fact of the aforesaid gang robbery; prisoner No. 7 (Narain) inasmuch as, having heard two or three days previous to the robbery in question from prisoner No. 6 (Sukaram wulud Sutwajee), at Moujé Oodrool, Péta Chandore, that the men whom he, prisoner No. 7 (Narain), was desired by prisoner No. 6 (Sukaram) to provide food for, had come to commit the robbery,

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he neglected to give information thereof to the Police Authorities.

Prisoner No. 8 (Khundoo) inasmuch as, having heard about eighteen days before the robbery, at Moujé Angungaon, from Purwata, Mang, not yet apprehended, that he had come to commit the robbery, he neglected to give information thereof to the Police Authorities.

The above charges are read over and explained to the prisoners, and they being asked whether they plead guilty or not guilty, plead not guilty.

Finding and Sentence by the Session Judge.—There is evidence that the robbery was committed by a large gang, with force, at night.

The confessions of prisoners Nos. 1 to 4 (Yesoo wulud Suya, Gungia wulud Naojia, Gungia wulud Kesoo, and Gungia wulud Pursia) are corroborated by the evidence recorded, from the fact of articles of the stolen property having been found in their possession, as deposed to by witnesses Nos. 13, 14, 15, and 16, and their confessions are proved by the evidence of the witnesses Nos. 18, 19, 22, and 23. They now assert their innocence, and declare they were beaten, and their confessions extorted from them; but they do not adduce any evidence to prove this. Before the Joint Magistrate they also urged the same plea of compulsion having been used to make them confess, but they could not prove it.

The plea of prisoner No. 1 cannot be admitted, that the six 'bondé' were picked up by the Duffedar and Peons, and made over to his care by them, because he is the Jaglia of the village, and that he afterwards gave them to prisoner No. 2 (Gungia wulud Naojia), to take care of, because he had to go to another village, and there was not any one in his house to whose care he could confide them.

Neither is prisoner No. 2 (Gungia wulud Naojia) to

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be believed, when he says that he took the bondé to Malligaum, where he had gone to sell a horse, and that he forgot when he left Malligaum to bring away his 'butwa,' or bag wherein were the bondé.

Prisoner No. 3 (Gungia wulud Kesoo,) in whose possession was found the silver 'gétha' (necklace), says he picked it up on the ground, and as it was his good fortune to have found it, he thought he was at liberty to keep it, and not obliged to give information to the Authorities; but it must be borne in mind that it was the day after the robbery that he had the good fortune to stumble upon this gétha, and he confesses that the gétha was a part of his share of the booty.

Prisoner No. 4 (Gungia wulud Pursia) admits that he was in the robbery, and he discovered a portion of the stolen property to complainant, buried in the ground near his house. He now urges in his defence that he does not know how the articles came there.

Upon the grounds of their own confessions, and the evidence of the witnesses, the Court finds the prisoners Yesoo wulud Suya (No. 1), Gungia wulud Naojia (No. 2), Gungia wulud Kesoo (No. 3), and Gungia wulud Pursia (No. 4), guilty of gang robbery by night, attended with force; in having, at about 8 o'clock P. M., on the night of Friday the 28th October 1853, (corresponding with Ashwin Wud 11th, Shuké 1775,) in company with several others, not yet apprehended, armed with swords, axes, and sticks, forced an entrance into the house of Boodhajee wulud Lukmeechund, Marwaree, in Mujré Duruswaree, Moujé Pimplud Doomala, Péta Chandore, Talooka Chandore, Sub-Collectorate Nassick, Zillah Ahmednuggur, by breaking open the doors with stones and axes, seriously assaulted the said Boodhajee, and robbed from him property, consisting of ornaments, cloth, and Rs. 100 in cash, &c. altogether to the value of about Rs. 779-8-0.

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Read and recorded a former warrant of Gungia wulud Kesoo (prisoner No. 3).

The Court passes the following sentence, under the provisions of Regulation XIV. A. D. 1827, Section XXXVII. Clause 1st :—

That you, Yesoo wulud Suya, Bheel, Gungia wulud Naojia, Mang, Gungia wulud Kesoo, Mang, and Gungia wulud Pursia, Mang, be each imprisoned and kept to hard labour for the term of three (3) years; and it is further ordered, that at the expiration of your imprisonment, you, Gungia wulud Kesoo, be made over to the Joint Magistrate for precautionary measures, as you are an old offender.

* * * * * *

The prisoner Maya wulud Duya (No. 5) also confesses that he was in the gang, and prisoners Narain wulud Abajee (No. 7) and Khundoo wulud Huree (No. 8) confess that they aided in, and also concealed the robbery; but not an article of stolen property was found in possession of Maya wulud Duya, neither is his confession, nor are the confessions of the other two prisoners, corroborated by other collateral evidence. They are therefore acquitted; but on the grounds of their confessions alone, which they cannot prove to have been extorted, they are ordered to be made over to the Acting Joint Magistrate, for precautionary measures.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Session Judge is to be informed, that the sentence was most inadequate to the offence of which he convicted the prisoners. The gang was said to have been composed of twenty men, and complainant was assaulted and wounded, in addition to being robbed. Also that he should have proved the identity of Gungia Kesoo (prisoner No. 3) before recording the former warrant under which he was imprisoned.

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The Session Judge is further to be requested to inquire and report why the prisoners, committed in March, were not received at the Court until the month of June.

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KHANDEISH.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 65 of the Calendar of the Khandeish Sessions Court for 1854. Committed by Rao Bahadoor RAM NAID, Deputy Magistrate, on the 1st December 1854. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 4th December 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Neglect of Duty.

Prisoner.—Salabut Khan wulud Daood Khan, Mussulman, aged 40.

Charge.—Neglect of duty; in having, at about noon on Sunday the 1st October 1854, (corresponding with Ashwin Shood 10th, Shuké 1776,) at Yawul, Talooka Yawul, Zillah Khandeish, through neglect, lost the silver seal of the Yawul Moonsiff's Court, valued at Rs. 5, the property of Government, the same having been under his custody in his capacity of a Peon on the establishment, thereby rendering himself amenable to the provisions of Regulation II. of 1827, Section XXXVI. Clause 1st.

The charge having been read and explained to the prisoner, he pleads guilty.

Finding and Sentence by the Session Judge.—The confession of the prisoner Salabut Khan, and the statement of the witness Goolzar Khan, sufficiently explain the circumstances connected with the charge of which the prisoner before this Court has pleaded guilty, neglect, and the Court being, from the above evidence on record, of opinion that he is guilty of neglect of duty, in having, when on duty as Peon at the Moonsiff's Court

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at Yawul, Talooka Yawul, Zillah Khandeish, at about noon, on Sunday the 1st October 1854, (corresponding with Ashwin Shood 10th, Shuké 1776,) lost the silver seal of the Court, valued at Rs. 5, entrusted to his charge, proceeds to pass the following sentence :—

That you, Salabut Khan wulud Daood Khan, do pay a fine of five (5) rupees, or in default undergo ten (10) days' imprisonment, without hard labour, agreeably to the provisions of Regulation II. of 1827, Section XXXVI. Clause 1st.

* * * * * *

The witnesses are Government Peons, and they and the accused have been detained from duty from 28th October till 4th December 1854.

The attention of the Magistrate is directed to the delay, which appears in this case unnecessary, and not explained in proceedings by the Deputy Magistrate, who appears to have received this very light case on 30th November 1854, and not to have sent it to the Sessions Court till 3-45 P. M. on Saturday the 2nd December 1854, thereby entailing on all parties a detention of two days after its receipt by the Court, for had it been received early in the day, it would have been decided forthwith.

Extract of the above to be sent to the Magistrate.

Minute recorded by Mr. W. H. Harrison.—Salabut Khan, Peon of the Yawul Moonsiff's Court, has in this case been fined Rs. 5, or ten days' imprisonment, for neglect of duty, in losing the seal of the Moonsiff's Court, entrusted to his charge. I find nothing illegal in this sentence, which is within the limit of punishment assigned for simple neglect. Nor do I consider the sentence severe. The prisoner pleaded guilty, and did not justify the loss of the seal, which, he says, he forgot to report, until questioned about it the next day.

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He has not appealed, and I would not interfere. I observe the Session Judge has tried the case, although the accused pleaded guilty, as though an opposite plea had been entered.

Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion, that an instance of neglect of duty, punishable under Section XXXVI. Regulation II. of 1827, must be shown to be a "criminal" neglect. There is nothing on record in the trial before the Court to show that the loss of the seal was not, as the prisoner asserts it was, accidental. The Court regret that the Session Judge should have treated what was, possibly, a misfortune, as an offence against the criminal law, the more especially as the prisoner was described in evidence to be an honest man, of whom the Moonsiff, his master, spoke in the highest terms.

The conviction and sentence are annulled, and the fine, if paid, is to be restored.

The Court think a sound discretion would have been exercised if the offence of this Sepoy had been punished by a departmental fine, and that Salabut Khan should not suffer further, in any respect, in the matter.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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BELGAUM.

[Case No. 147 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. A. E. D. GREY, Third Assistant Magistrate, on the 14th December 1854. Tried by Mr. A. W. JONES, Session Judge, on the 8th, 9th, and 11th January 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Giryapa bin Sidapa, Lingayeet, aged 45. Murder.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, on Saturday the 2nd December 1854, (corresponding with Margsheersh Shood 13th, Shuké 1776,) in the village of Honehdil, in the Sumpgaum Talooka, in the Belgaum Division of the Dharwar Zillah, struck a boy named Yelya bin Moosyapa, with his hands, and with a clod of earth, from the effects of which he, the said Yelya, did then and their die.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and pleads not guilty.

The prisoner was originally committed on a charge of culpable homicide, but this was amended, at the suggestion of the Session Judge.

It appears, that on Saturday the 2nd December, two boys in the service of the Police Patel of Honehdil, Talooka Sumpgaum, took his cattle out to graze as usual, on some land, close to a field belonging to the prisoner, in which there was a crop of 'jowaree,' and that one of the bullocks in charge of these boys strayed into this field; whereon the prisoner, after driving it out, gave deceased Yelya several blows with his hand, and took away part of his clothing, and then, as the boy ran off to get away from him, the prisoner took up a clod of

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Murder.

earth, and, at a distance of about 5 yards, threw it, and hit him on the ribs, and the boy almost immediately on receiving the blow fell down, and in a very short time after expired.

This is proved by the evidence recorded in the case, and the Inquest Report, which was proved before the Court, shows that there was the mark of a blow on the boy's ribs; and all the circumstances are, moreover, admitted by the prisoner himself, although before the Assistant Magistrate he qualified the admission by stating that the clod had been thrown at the cattle: but this is only an after-thought, for it does not agree with the former statement at all, and witness No. 3 shows that there were no cattle in the direction of the deceased at the time; and the Session Judge therefore concludes that it must be considered established that the boy died from the blow thus given by the prisoner. The Assistant Magistrate who committed the case was of opinion, that there was no malice expressed or implied in the prisoner's act. But the Session Judge finds, from the evidence of the witnesses Dyama and Balya, that this is not the first instance in which the prisoner has beaten the deceased; and further, however provoking the injury to the prisoner's crops might have been, he was certainly not justified in striking so young a boy so violently as the boy's almost instantaneous death shows he must have done.

And on this account, therefore, as well as on account of the previous disputes between the prisoner and the boy, the Session Judge is of opinion that the prisoner must be convicted of murder, as stated in the charge; in having, on Saturday the 2nd December 1854, (corresponding with Margsheersh Shood 13th, Shuké 1776,) in the village of Honehdil, in the Sumpgaum Talooka, in the Belgaum Division of the Dharwar Zillah, struck a

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boy named Yelya bin Moosyapa, with his hands, and with a clod of earth, from the effects of which he, the said Yelya, did then and there die.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed :—

That you, Giryapa, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. A. Remington.—There can be no doubt of the death of deceased having been caused by the act of the prisoner, and that the degree of provocation he received did not justify the use of so much violence. But the prisoner is shown to have flung the clod of earth, which was at hand, in a passion, and it is impossible to consider the fact of his bringing water for deceased without feeling that the fatal result was unexpected by him.

I think imprisonment, under a conviction of culpable homicide, will be sufficient.

Minute recorded by Mr. W. H. Harrison.—The evidence recorded in this case shows that the prisoner, irritated by deceased, the lad Yelya, allowing the cattle he was tending to trespass in his field, struck him with a clod of earth, from the effects of which blow he at that time died. The prisoner exhibited his concern at the event, and procured water for the boy to drink. It is stated, that he had on a former occasion chastised deceased on like provocation ; but no immediate beating, or personal enmity, is hinted at. I would convict of culpable homicide, and sentence to imprisonment.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner is convicted of culpable homicide, and sentenced to two (2) years' imprisonment, with hard labour.

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KHANDEISH.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 55 of the Calendar of the Khandeish Sessions Court for 1854. Committed by Mr. T. WEEDING, Assistant Magistrate, on the 20th September 1854. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 21st and 22nd September 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Vitoo wulud Goonajee.]

Robbery by Night, without Force; and having in possession Property, knowing the same to have been Stolen.

Prisoners.—No. 1, Nuthoo wulud Shivajee, Malee, aged 25.
2, Hajeekhan wulud Mujeetkhan, Mussulman, aged 30.
3, Kumal wulud Noorkhan, Mussulman, aged 30.
4, Vitoo wulud Goonajee, Koonbee, aged 55.

Charge.—Robbery by night, without force; in having, on the night of Friday the 24th March 1854, (corresponding with Falgoon Wud 10th, Shuké 1775,) at Jamnair, Talooka Jamnair, Zillah Khandeish, stolen from the house of Vitoo wulud Ookha, oilman, gold and silver ornaments, and cash, value Rs. 643, thereby rendering themselves amenable to the provisions of Regulation XIV. of 1827, Section XXXVI. Clauses 1st and 3rd.

Also the above four prisoners are charged with having in their possession property, knowing the same to have been stolen; in having, between 24th March 1854, (corresponding with Falgoon Wud 10th, Shuké 1775,) and 24th August 1854, (corresponding with Bhadrupud Shood 1st, Shuké 1776,) at Jamnair, Talooka Jamnair, Zillah Khandeish, kept in their possession property, knowing the same to have been stolen, thereby render-

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ing themselves amenable to the provisions of Regulation XIV. of 1827, Section XLI. Clause 1st.

Finding and Sentence by the Session Judge.—There are certain informalities of procedure to be disposed of.

Yesterday all the prisoners pleaded not guilty; to-day the prisoner No. 1 (Nuthoo) and prisoner No. 2 (Hajeekhan) deny the statements supposed to have been made before the District Police Officer on 25th and 26th August 1854, and prisoners Nos. 3 and 4 (Kumal and Vitoo) allow the statements made by them on the 28th and 29th August 1854, and read before them now, to be true.

The prosecutor Vitoo oilman's evidence (No. 2) is very unsatisfactory, and the value of the property stolen is not ascertained by evidence before this Court; nor has he even adduced evidence to prove that the few pieces of gold, valued at about Rs. 79-12-0, as detailed by witness No. 4, are his property, except from his own statement No. 2.

The Court proceeds to reconsider the purport and relative value of the evidence for the trial, rejecting the narrative given incoherently in the statement of prisoner No. 1 (Nuthoo), in consequence of his having since withdrawn that statement, though the conduct of prisoner No. 1 (Nuthoo), as detailed in evidence No. 12, and of the prisoners Nos. 2 and 3 (Hajeekhan and Kumal), as referred to by evidence Nos. 3 and 4, goes much to corroborate the facts detailed in the statement made by the prisoner No. 1 (Nuthoo) before the District Police Officer, on 25th August 1854.

It appears that the prosecutor, as detailed in his evidence (No. 2), suspected Nuthoo (prisoner No. 1), because he had seen him (prosecutor) place certain articles (not authenticated as to existence or value) in an earthen vessel, and that Nuthoo by his own statement

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(No. 14) availed himself of the confusion occasioned by a fire in the prosecutor's premises, about the month of March last, to abstract that earthen pot, and that the prisoners Nos. 2 and 3 (Hajeekhan and Kumal), either knowing or suspecting him to be the thief, and bribed by the prosecutor, as he states, continually pressed him on the subject, till they contrived to make him give up almost all the money, Rs. 21, and to divide the property, part of which, value about Rs. 79-12-0, found its way into the hands of Dusrut, a goldsmith, to establish whose statement regarding the disposal of the property, evidence Nos. 5, 6, 7, 8, 10, and 11 are recorded; and from him the Police obtained the information which has ended in the committal of the four prisoners for robbery by night, without force, about March last; and having, in the second indictment, goods in their possession, knowing the same to have been stolen.

The Court is of opinion, that the preliminary inquiries by the Police must have been conducted in a desultory manner, as so few of the ornaments have been recovered, and so very little direct evidence to the guilt of the prisoners is on record.

The evidence of the prosecutor (witness No. 2) identifies the articles before the Court as his, but the evidence of Moteeram, Havildar (witness No. 3) indirectly, and of Dusrut (witness No. 4) directly, implicates Hajeekhan and Kumul (prisoners Nos. 2 and 3) as having sold some of the articles before the Court; and the evidence No. 12 that he, in company with other Policemen, were shown by prisoner No. 1 (Nuthoo) others of the ornaments before the Court; and according to the evidence No. 13, the prisoner No. 2 (Hajeekhan) made a statement that Nuthoo (prisoner No. 1) had committed the robbery and prisoners Nos. 2, 3, and 4 (Hajeekhan, Kumul, and Vitoo) divided the property. In the absence of direct evidence, the Court is compelled to allow this evidence,

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and the statements of the prisoners Nos. 3 and 4 (Kumul and Vitoo) to be accepted at their value, and on the evidence they detailed, corroborated by evidence Nos. 2, 3, 4, 12, and 13, the prisoners No. 1 (Nuthoo wulud Shivajee), No. 2 (Hajeekhan wulud Mujeetkhan), and No. 3 (Kumul wulud Noorkhan), are accordingly convicted by the Court, and prisoner No. 4 (Vitoo wulud Goonajee) on his own statement, and by the fact of the articles recovered, of having in their possession goods, knowing the same to have been stolen; in having, between 24th March 1854, (corresponding with Falgoon Wud 10th, Shuké 1775,) and 24th August 1854, (corresponding with Bhadrupud Shood 1st, Shuké 1776,) at Jamnair, Talooka Jamnair, Zillah Khandeish, kept in their possession property, value Rs. 211-14-3, knowing the same to have been stolen; and are acquitted of the charge of robbery by night, without force; and the Court proceeds to pass the following sentence, not drawing any distinction of guilt when all the prisoners appear to have participated in the profits.

That you, the prisoners Nuthoo wulud Shivajee (No. 1), Hajeekhan wulud Mujeetkhan (No. 2), Kumal wulud Noorkhan (No. 3), and Vitoo wulud Goonajee (No. 4), do undergo each of you two (2) years' imprisonment, with hard labour, under the provisions of Regulation XIV. of 1827, Section XLI. Clause 1st.

* * * * *

The Court considers it a duty, due to the rights of the prisoners, to bring to the notice of the Magistrate the fact, that from the District Police Officer's statement, it appears that these prisoners were all four arrested and in confinement from 24th August 1854; but the evidence of the Policemen Bhorekhan wulud Hayatkhan (witness No. 13), in to-day's proceedings, states that he arrested Hajeekhan wulud Mujeetkhan (prisoner No. 2 in Case No. 55 of the General Calendar for 1854) about the 8th

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August, and the evidence of Mehtabkhan wulud Jankhan (entered No. 12 in Case No. 55 of the General Calendar for 1854) was to the effect that he persuaded the prisoner No. 1 (Nuthoo wulud Shivajee) to confess, and show some of the stolen goods about 12th or 13th August last, after he (Nuthoo) had been in confinement at the Fort (probably District Police Officer's Office) four days. The statements of the prisoners purport to be taken on 28th August, while much of the evidence for the prosecution (Nos. 4, 5, 6, 7, 8, 9, 10, and 11) was taken between 2nd and 11th September; and with reference to the statements made in the confessions of all the prisoners in Case No. 55 of the General Calendar for 1854, and the absence of evidence to the amount of property stated by the prosecutor to have been stolen, and for the identifying of that which has been recovered, the Court begs to direct the Magistrate's attention to Circulars Nos. 453 of 1852, and 429 of 24th August 1850, of the printed collection.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to explain why the deposition of Moteeram wulud Krishnajee, Havildar (witness No. 3), differs in so many material respects from what the Session Judge has recorded in pages 7 to 10 of his English proceedings, which comprise this person's evidence.

Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—With reference to the within Precept, dated 20th December 1854, which was received on 31st December 1854, the Session Judge of Khandeish has the honour to observe, with reference to the extract from the proceedings of Sudder Foujdaree Adawlut, dated 20th ultimo, that the record made in English by the Session Judge was drawn up by him at the time of trial from the *vivâ voce* statement of Moteeram wulud Krishnajee, Havildar, while giving evidence in reply to

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questions put by the Court, and that the Session Judge holds the notes made by himself to be the authentic deposition, while the Mahratta record in this particular instance, having been written and dictated by two men totally unaccustomed to taking evidence, should be considered erroneous; and that when the Mahratta statement was read to the witness in Court prior to his signature, the discrepancies escaped notice. The Sheristedar was absent on sick certificate, on 21st September last, and the Second Sheristedar, having on a previous occasion shown himself unable to record evidence accurately, was not employed; and the Session Judge had during the trial occasion to warn, and eventually to mark his sense of the carelessness of the writers, by a light fine, entered on record.

The delay has in some degree been occasioned by the absence of the Session Judge on leave, who subsequently was detained three days at Malligaum from sickness.

The papers and proceedings received with the within Precept are herewith returned.

Resolution of the Sudder Foujdaree Adawlut.—The prisoners were severally acquitted of the robbery, but convicted on the count charging them with being in possession of stolen property.

The complainant, whose evidence was described in the finding as "very unsatisfactory," had been robbed several months before he communicated the fact to the Police, and unless it be assumed that prisoner No. 1 (Nuthoo), his partner in trade, and, therefore, suspected of being privy to the theft, confessed his crime to the other prisoners, there was nothing whatever in the evidence to implicate them, even allowing that they did deal with the ornaments, which afterwards turned out to belong to complainant, in the manner described.

It was set forth in the finding that "Nuthoo's incoherent narrative must be rejected, since he withdrew

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it"; but Nuthoo had declared, before the District Police Officer, that he had been taken to a nulla, and ill-treated there; and, as if in corroboration of the assertion, it was recorded in the English version of the deposition of Police Havildar Moteeram, that "Anunda made Nuthoo confess, and they found some ornaments in the roof of his house."

No further notice was taken of the confession, which the Sessions Court had recorded, without calling upon the attesting witnesses to prove it; but on referring to the deposition of Moteeram in the vernacular, it appeared that no allusion whatever was made to the confession having been extorted, nor was Anunda even so much as named therein.

Either, then, the Session Judge must have totally misunderstood what the witness did say, or he trusted to the Officers of his Court for the substance of the evidence: and something of this sort appears to have occurred; for, in return to a Precept pointing out the discrepancy, and calling for its explanation, the Court are informed that "the record made in English by the Session Judge was drawn up by him from the *vivâ voce* statement of Moteeram, Havildar, while giving evidence in reply to questions put by the Court, and that the Session Judge holds the notes made by himself to be the authentic deposition, while the Mahratta record, in this particular instance, having been written and dictated by two men totally unaccustomed to taking evidence, should be considered erroneous; and that, when the Mahratta statement was read to the witness in Court, prior to his signature, the discrepancies escaped notice."

The Session Judge would seem to forget, that though the English record should correctly represent all that passes at the trial, a witness must be examined in the language he is best acquainted with, and the deposition, being signed, becomes an exhibit in the case, and is

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regarded as the original evidence, for the truth of which the witness is responsible. How, then, are the Sudder Foujdaree Adawlut to understand, that if the deposition had been read over, as required by law, this great and important discrepancy did not attract the attention, either of the Sessions Court, or of the witness himself? But as the Session Judge informs the Court that "his notes," and *not* the deposition, can only be depended upon in this case, the Court must either dispense with the evidence altogether, or allow weight to evidence obtained through an extorted confession, probably as valueless as the confession itself, and, at the same time, allow credit to Moteeram, Havildar, who is accused by another witness (Mahdowrow Krishna) of having compelled him to make up the pieces of gold, which he claimed as his own, into a bar, an allegation that does not appear in the Judge's notes at all.

Other circumstances, indicative of inattention, might be noticed, such as the omission to take the evidence of Mehtabkhan, who had deposed before the Assistant Magistrate that the ornaments were discovered on search of Nuthoo's house, and which, as proceeding from the Revenue Patel, altogether independent of the Police, was the more to be regarded; but in a trial so faultily conducted throughout, it would be unsafe to rely upon the record, and the conviction and sentence are annulled, and the prisoners are to be discharged.

It seems impossible to condemn too severely the manner in which this case, involving a long imprisonment to the convicted, has been conducted by the Session Judge; nor to overstate the distrust which the present trial casts upon the decisions already pronounced in other cases by the Session Judge in Khandeish; nor the apprehension with which the Judges look forward to Mr. Richardson's future administration of criminal justice.

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SHOLAPORE.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 7 of the Criminal Return of the Magistrate of Sholapore for October 1854. Tried by Mr. A. BOSANQUET, Acting Second Assistant Magistrate, on the 10th October 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner Kedari wulud Dadoo.]

Robbery by Night, without Force; Receipt of Stolen Property; and Aiding and Abetting in the same Crime.

Prisoners.—No. 1, Narain wulud Mulba, Lard, aged 25.

2, Bawashaw wulud Fukeersha, Mussulman, aged 30.

3, Kedari wulud Dadoo, Mhar, aged 32.

4, Tatia oorf Nursingrow bin Nana Deshmookh, Mahratta, aged 42.

Charge.—Prisoners Nos. 1, 2, and 3 are charged with having committed robbery without force, by night (Section XXXVII. Clause 4th, Regulation XIV. of 1827); in having, on the night of the 26th July 1850, in the village of Ralanjan, in the District of Barsee, stolen from the house of the complainant, Ramchunder Shiwajee, a silver lamp, valued at Rs. 272.

Prisoner No. 3 is charged with receiving property, which he knew to be stolen (Section XLI. Clause 1st, Regulation XIV. of 1827); in having, on the night of the 26th July 1850, in the village of Damargaon, in the District of Barsee, received a silver lamp, valued at Rs. 272, the property of the complainant Ramchunder, which he knew to have been stolen.

Prisoner No. 4 is charged with aiding the commission of the robbery by prisoners Nos. 1, 2, and 3, as above detailed. (Clause 5th, Sect. I. Reg. XIV. of 1827.)

The prisoners plead not guilty to the charges against them.

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SHOLAPORE.

Robbery by Night, without Force; Receipt of Stolen Property; and Aiding and Abetting in the same Crime.

Finding and Sentence by the Acting Second Assistant Magistrate, confirmed by the Magistrate.—There is no evidence against prisoners Nos. 1 and 2, and the case against them is dismissed.

The case against prisoner No. 4 is dismissed.

The Police Amuldar framed a charge of concealment after the fact against prisoner No. 4, but as, according to Section I. Clause 5th, Regulation XIV. of 1827, concealment after the fact is not a crime that *in this instance* can be prosecuted, the Assistant Magistrate is reluctantly obliged to dismiss the case against prisoner No. 4; for it is fully proved, that owing to him the three first prisoners were not prosecuted for the offence: it is also proved that he extorted Rs. 40 from the complainant; but as he is not, and was not a Police Officer, he cannot be proceeded against. The fact is, that the Police Patel of Ralanjan is appointed by him, and he was allowed to appoint his own Karkoon to the office, so that for years together he has perpetrated every iniquity he might choose with impunity, for the Police Patel, who ought to have reported his conduct, was his creature. The man who was Police Patel in 1850 is no longer so, and though his conduct was very culpable in bringing prisoner No. 3 and the stolen property, and complainant, to the Deshmookh's house, and not reporting the affair to the Police Amuldar, yet it would be useless to proceed against him for it; he was the mere tool of the Deshmookh, and the authority who is really culpable is he who permitted the Deshmookh to appoint his own Karkoon Police Patel of the village.

Prisoner No. 3 (Kedari) is found guilty of receiving property, which he knew to be stolen. (Section XLI. Clause 1st, Regulation XIV. of 1827.)

Sentence.—Prisoner No. 3 (Kedari) is sentenced to suffer one (1) year's imprisonment, with hard labour. (Section XLI. Clause 1st, Regulation XIV. of 1827.)

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Robbery, &c.

This sentence is referred to the Magistrate for confirmation. (Section III. Regulation IV. of 1830.)

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

BROACH.

[Case No. 16 of the Criminal Return of the Magistrate of Broach for November 1854. Tried by Mr. L. ASHBURNER, Acting First Assistant Magistrate, on the 8th November 1854. Reviewed by Mr. E. L. JENKINS, Magistrate, on the 21st December 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner Kalidas Dajee.]

Jhansa.

Prisoners.—No. 1, Kalidas Dajee, Cultivator, aged 25.

2, Kanji Rutna Bowaya, Mendicant, aged 22.

Charge.—Jhansa; in having, October 27th, 1854, (Sumvut 1911, Kartik Shood 6th,) affixed a notice in the field of Ajoo Doolub, threatening, in the event of one Bechur Bowan not paying him some money, to kill some one, and stating that on this occasion he contented himself with destroying some standing crops; they, the prisoners, having then and there destroyed certain pepper, cotton, and tobacco, growing in the field of Ajoo Doolub, Jora Oka, and Rayujee Juvér, value about Rs. 20. (Regulation XIV. of 1827, Section XXXV.)

Prisoners plead not guilty.

Finding and Sentence by the Assistant Magistrate.—The circumstantial evidence against prisoner No. 1 is very strong. The account book found in his house, which he admits to be his, is ruled in a peculiar manner, with two vertical lines on the margin of the page. There are several blank pages in the book, and most of them are

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loose. One of them has evidently been made use of to write the 'jhansa' notice.

The writing of the jhansa notice, too, is peculiar: the writer is evidently a greater adept with his pen than he wishes to have thought; but on comparing it carefully with much of the writing in the book, it is impossible to doubt that the same hand wrote both. It is true the writing in the book has not been proved to be that of the prisoner, and I can get no good evidence of this fact; but it having been found in his house, and he owning it to be his property, the presumption is against him: but setting aside this point, a comparison of the letters of the jhansa notice with those written by the prisoner in the presence of the Police Amuldar will lead to the same conclusion, though the specimen of handwriting is evidently disguised. It is so seldom that a case of jhansa can be proved, and the offence is of so dangerous a nature, that short of inflicting on the witnesses a journey to the Adawlut, I think it should be punished with severity.

Prisoner is guilty of jhansa, and is sentenced to imprisonment with hard labour for eleven (11) months, and for one (1) more on conjee diet; he is further fined twenty (20) rupees, to be recovered under Act XVI. of 1850, and divided among the sufferers by the jhansa.

There is no evidence against prisoner No. 2, and he is discharged. (Regulation XIV. of 1827, Section XXXV.)

* * * * *

Read and recorded a 'yadee' No. 101, December 4th, 1854, from the Magistrate, directing me to take further evidence as to the identity of the prisoner's handwriting with that in the jhansa notice. Chutoorbooj Hurdéram, Tulatee of Borka, Khoopchund Duyal Jupti, Karkoon of Khurwara, and Bhugwandas Jugjeewun, Survey Karkoon of Broach, having been appointed a 'punch,' and sworn, are shown a paper, written by the prisoner in the

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presence of the Mamlutdar of Ahmode, recorded No. 8, and told to compare the handwriting in it with that in the jhansa paper, recorded No. 5, and the book entitled 'pudmawuti,' No. 6. They state:—"We have compared the handwriting, and are of opinion that the jhansa notice (No. 5) and the paper (No. 8) written by prisoner have been written by the same hand. The letters are similar. The handwriting in the book (pudmawuti, No. 6) does not seem to correspond with that on the jhansa notice; the paper on which the latter is written seems older than that of the book, though the lines on the margin are similar: the jhansa paper has evidently been torn out of a similar book, but smaller."

The proceedings are again forwarded to the Magistrate, for confirmation.

Review by the Magistrate.—The sentence is confirmed, as the Magistrate considers that there is no doubt that the jhansa paper is in the handwriting of the prisoner Kalidas, and there is amongst the Goozerattee papers in the case a deposition of Bechur Bhugwun (witness No. 4), given before the Police Amuldar when the inquiry was first commenced, in which it is stated that he suspected Kalidas to be the person by whom the paper was written, because Kalidas was the only person in the village except himself who was able to write.

Minute recorded by Mr. A. Remington.—The prisoner was convicted of jhansa, because the evidence satisfied the Magistrate, who confirmed the sentence of the Assistant Magistrate, that he had written the paper found in Ajoo's field. But if that was all the prisoner did in the matter, the offence, as defined in Section XXXIV. Regulation XIV. of 1827, was not committed, it being necessary to show that the accused intimidated complainant, or had cause to do so, and the evidence is all the other way, applying only to Kanji, the other prisoner.

Had Kalidas been charged with "aiding," the evidence

might have sufficed; but as it is, I hold it deficient, and would annul the conviction.

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Jhansa.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is annulled, and the prisoner is to be discharged.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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TANNA.

[Case of Budemeyah wulud Hajee Esmael, and Sheik Mahomed wulud Wulee Mahomed, fined for disobeying an order by the Magistrate. Referred to the Sudder Foujdaree Adawlut, by the Session Judge.]

Disobedience of an Order by the Magistrate.

Extract from the Proceedings held by Mr. R. Keays, Session Judge, on Review.—Read and recorded a petition of appeal presented to this Court by Budemeyah wulud Hajee Esmael, and Sheik Mahomed wulud Wulee Mahomed, of Tanna, praying the remission of a fine of Rs. 5 each, inflicted upon them by the *Foujdar* of Tanna for disobeying orders, and the Magistrate of Tanna having rejected their appeal to him.

* * * * * *

The Court proceeds to the consideration of the petition of appeal from Budemeyah wulud Hajee Esmael, and Sheik Mahomed wulud Wulee Mahomed, of Tanna, whose case was called for from the Magistrate of Tanna in the Court's Precept No. 125, dated the 22nd ultimo, the same having been received, with his return thereto of the 27th idem.

Having read the papers and proceedings in this case, the Court finds that the petitioners have been fined for infringing an order prohibiting native music, and which order was issued in 1851. In extenuation of their fault, they plead that they were unaware of this notice, and that they were not aware that it was past 10 o'clock when they were taken in the act. Now,

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Disobedience of an Order by the Magistrate.

according to the Foujdar's report, it does not seem that it was much past that hour when they were apprehended, and therefore, that the fine imposed by the Foujdar was of undue severity. This would also seem to have been the opinion of the Magistrate, Mr. Rose, judging from his order to the Foujdar in confirming the fine. Under these circumstances, I am of opinion that one half of the fine should be remitted; and I therefore request, that if the Magistrate does not concur with me in this opinion, he will have the goodness to state his objections, in order that I may submit them, together with my view of the case, for the consideration of the Judges of the Sudder Foujdaree Adawlut.

Reply from the Magistrate to the Session Judge.—In reply to your Precept No. 156, dated 30th ultimo, in the case of Budemeyah wulud Hajee Esmael, and another, I have the honour to inform you, that I have objections to make to your opinion, as follows:—

1*st.*—That after a notice of injunction has been published, a plea of ignorance of it cannot be admitted; otherwise everybody would advance this plea, and the injunction would never be enforced.

2*nd.*—That there is a considerable number of gongs in the town, and no person need remain in ignorance of the hour. If he does so, the fault is his.

3*rd.*—That it was much nearer 11 than 10 o'clock when the disturbance was made, and there is no graduated scale of punishment, according to the hour of the night. An offender is not punishable more severely for having infringed the order at $\frac{1}{4}$ before 11 (which was about the hour in the present case), than for having infringed it at $\frac{1}{2}$ past 10.

4*th.*—That the defendant's excuse has no ground whatever to rest upon, for the Foujdar and the Police, in the first instance, informed them that it was past 10 o'clock, and requested them to discontinue the disturb-

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ance; to which the defendants answered by setting the Foujdar at defiance, and telling him they would go on in spite of him; and they also went the length of assaulting the Police.

5*th*.—That I do not understand in the least that Mr. Rose thought the fine unduly severe. He states in his order rejecting the appeal, that "*there seems no reason for reducing the fine.*"

For the above reasons, I am very humbly of opinion, that there is no reason whatever for remitting any portion of the fine, and I further consider, that the length of time that has elapsed since the case was disposed of, viz. more than a year and a quarter, is an additional reason why the appeal to you should be rejected.

Letter from the Session Judge to the Sudder Foujdaree Adawlut.—Under the provisions of Clause 3rd, Section III. Regulation VIII. of 1831, I have the honour to forward the accompanying extract from my proceedings dated 22nd and 30*th* ultimo, in the case of Budemeyah wulud Hajee Esmael and Sheik Mahomed wulud Wulee Mahomed, and the Magistrate's reply, and request you will submit the same, with the Mahratta papers in the case herewith forwarded, for the decision of the Judges of the Sudder Foujdaree Adawlut.

Nothwithstanding the cogent reasons brought forward by Mr. Seton Karr, in support of his view of the case, I beg to state that I still think the fines levied from the petitioners heavy. I am induced to hold this opinion from the circumstance of Mr. Rose having, when rejecting their petition, thought it expedient to issue an injunction to the Foujdar, implying, as it appears to me to do, that they were treated with undue severity; and further, because the notice against disturbances was not published immediately before the occurrence of the Mohurrum.

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TANNA.

Disobedience of an Order by the Magistrate.

Resolution of the Sudder Foujdaree Adawlut.—The Session Judge is to be informed that no cause is shown for interfering with the decision of the Magistrate, which he admits is supported by good and sufficient reasons, and the proceedings are returned.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

BROACH.

[Case No. 5 of the Criminal Return of the Magistrate of Broach for December 1854. Tried by Mr. E. L. JENKINS, Magistrate, on the 14th and 19th December 1854. Proceedings submitted for the consideration and orders of the Sudder Foujdaree Adawlut, by Mr. H. HEBBERT, the Acting Session Judge of Surat.]

Breach of Trust.

Prisoner.—Motee Nursee, Bhatya, aged 31.

Charge.—Breach of trust; in having fraudulently kept from one Bheerjee, wife of Wussun, of the city of Broach, and applied to his own use, a golden 'hansree,' of the value of Rs. 25, and Rs. 13 in cash, which he had fraudulently obtained from the said Bheerjee, under the pretence that he was going to make them over to one Hurjeewun Duyaram, who was willing to exchange them for other articles; the said offence having been committed in the city of Broach, on or about the 3rd December 1854 (corresponding with Margsheersh Shood 14th, Sumvut 1910). (Regulation XIV. of 1827, Section XL.)

The prisoner pleads not guilty.

Finding and Sentence by the Magistrate.—The prisoner is again called up, and as the Magistrate considers the charge to be sufficiently established by the evidence for the prosecution, the said prisoner is informed, that he is sentenced to be imprisoned for five (5) months, with hard labour, and afterwards to pay a fine of thirteen (13) rupees, or to be imprisoned for a further period of one

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(1) month. The amount of fine, if paid, to be made over to the complainant, in compensation for her loss.

Review by the Acting Session Judge.—In this case the prisoner was accused of breach of trust, in having obtained from the complainant a golden hansree, and Rs. 13 in cash, in the name of one Hurjeewun Duyaram, and then appropriated the same to his own use. Only one witness corroborates the complainant's assertion, that the ornament and money were obtained from her, under the circumstances she states.

On the other hand, the prisoner declares he was gambling in the complainant's house, and being unsuccessful, that she first lent him the Rs. 13, and afterwards the hansree, to induce him to play on, to her profit. Three witnesses depose that they heard the complainant admit she had lent the hansree to him to pledge, though they do not state under what circumstances she had been induced to do this.

Such being an outline of the case, the Court is of opinion the evidence is insufficient to warrant the prisoner's conviction ; the more so, as probability is rather in favour of his version of the story than complainant's. It is unlikely she would give her hansree to him, a man with whose character she was unacquainted, under the circumstances she mentions ; and again, as the extra money was only required to pay the cost of altering the hansree into a 'toolsee pattia,' and the amount of that cost could not be known till the alteration had been made, why should she give at once Rs. 13 on demand ?

The Court, further, is of opinion, that the offence committed does not amount to breach of trust. Neither the hansree nor the Rs. 13 were entrusted to the prisoner, the Court thinks, within the meaning of the Section (XL. of Regulation XIV. of 1827) under which the prisoner has been punished. The prisoner's offence was rather in obtaining under false pretences.

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For both these reasons, therefore, the Court considers the prisoner should be acquitted and discharged.

Wrote letter to the Magistrate of Broach, forwarding extract copy of the above, for his information, and such comments as he may wish to offer thereon.

Letter from the Magistrate to the Acting Session Judge.—With reference to your letter No. 85, dated the 15th instant, I have the honour to inform you, that I have stated, in my finding in the case therein alluded to, that I consider the charge to be sufficiently established by the evidence for the prosecution; and it therefore remains for the Judges of the Sudder Foujdaree Adawlut to determine whether that evidence is sufficient to warrant the prisoner's conviction or not. I may also mention, that from the manner in which Damodur Gela (witness No. 3) gave his evidence before me, I had every reason to think that he had been tampered with to a certain extent.

With reference to the latter part of the extract from your proceedings, I beg to state, that if the prisoner did act in the manner in which he is said to have done, I consider that there is no doubt that he may be fairly said to have kept from its owner property so entrusted to his charge or disposal, as to enable him to do the same without employing either the force or secresy which would constitute robbery, in the manner contemplated in Section XL. Regulation XIV. of 1827.

The papers and proceedings are herewith returned.

Letter from the Acting Session Judge to the Sudder Foujdaree Adawlut.— Under the provisions of Regulation VIII. of 1831, Section III. Clause 3rd, I have the honour to submit, for the consideration and orders of the Judges of the Sudder Foujdaree Adawlut, copy of a correspondence between the Magistrate of Broach and myself, connected with a prisoner, Motee Nursee, convicted by him of breach of trust.

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Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion, that the money and hansree were lent to the prisoner, and not entrusted to him, as a deposit, to keep or to deliver to another party, and that the charge is not established. The prisoner is therefore discharged.

The Magistrate is to be requested to pay more attention to the preparation of his proceedings. The substance of the statement made by the prisoner, in defence, was not recorded at all, nor the Regulation under which he was punished quoted; and an unaccountable delay took place before judgment was recorded.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 7 of the Calendar of the Surat Sessions Court for 1854. Committed by Mr. E. L. JENKINS, Magistrate, on the 26th October 1854. Tried by Mr. W. H. HARRISON, Session Judge, on the 24th November 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Culpable Homicide.

Prisoners.—No. 1, Shaik Rahim Shaik Kureem, Mussulman, aged 45.
2, Mirza Moorad Beg Kala Beg, Mussulman, aged 25.
3, Bunoo Ahmed, Mussulman, aged 28.
4, Abdoola Abdoo, Mussulman, aged 36.

Charge.—Culpable homicide (Regulation XIV. of 1827, Section XXVII.); in having, on or about the 1st October 1854, (corresponding to Ashad Shood 10th, Sumvut 1910,) made an attack upon one Juver Dewajee, of the city of Broach, in what is termed the Golwar of the said city, and beaten, and otherwise ill-treated him,

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Culpable Homicide.

with their hands, or fists, and also with sticks or other weapons, thereby causing his death, which took place on the 7th October 1854 (corresponding to Ashad Wud 1st, Sumvut 1910).

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The prisoners are accused of culpable homicide; and it is in evidence, that on the date laid in the charge, they, Sepoys of the Sudder Ameen's Court, went to execute a process for arrest of a party named Kanjee, who escaped from his house on, as seems to have been supposed, a warning, given in a loud tone of voice, by the deceased Juver, who had come to the spot. The prisoners, then, disappointed in their intended capture, assaulted the deceased, and carried away him and his father, to answer for the alleged obstruction. Taken to the Foujdar, the deceased complained of the assault, although not suffering severely at that time from it. The same night he was attacked with strangulated hernia, and was next morning conveyed to the hospital, where he died six days after of this disease. The questions at issue in the case are—Was an assault committed by the prisoners on the deceased? and Did the latter die from the effects of that assault? The first, the Session Judge finds to be proved by the evidence recorded, the discrepancies in which are not material, while the prisoners do not attempt to rebut it; and the Foujdar contradicts their assertion that the story of the assault was an after-thought trumped up against them, for he deposes it was complained of the same evening.

The second point the Session Judge concludes is not established. That the hernia was the result of the assault there seems little reason to doubt, and if death was a necessary consequence of that disease, the accused would be liable for it, if shown to be the consequence of their illegal act. The Civil Surgeon, however, deposes,

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that the deceased refused to submit to the operation necessary to the avoidance of a fatal result, and the accused must have the benefit of the doubt which this suggests, in regard to the more serious part of the charge against them.

The Session Judge convicts the prisoners of assault; and, according to Regulation XIV. of 1827, Section XXIX. sentences them each to pay a fine of fifty (50) rupees, or to be imprisoned for six (6) months.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Court are of opinion, that the Session Judge was wrong in convicting the prisoners merely of serious assault. He found not only that an assault had been committed, but that the result of it was hernia, which, according to the opinion of the Civil Surgeon, had caused death. Deceased, it appears, refused to submit to an operation, which might, the medical officer thought, have prevented a fatal result; but the question was not what was the after conduct of deceased, but whether an injury calculated to produce death had been caused or not; and that being found in the affirmative, the conviction should have been culpable homicide, and a more adequate punishment awarded.

It is laid down in Archbold, that if the wound "become fatal from the refusal of the party to submit to a surgical operation (Reg. *v.* Holland, 2 M. and Rob. 351), this is, also, such a killing as would constitute murder."

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

BROACH.

[Case No. 14 of the Criminal Return of the Magistrate of Broach for December 1854. Tried by Mr. L. ASHBURNER, Acting First Assistant Magistrate, on the 22nd and 27th December 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Breach of Trust.

Prisoner.—Godowri *alias* Dholee, Banian, aged 20.

Charge.—Breach of trust; in having, October 24th, 1854, (Kartik Shood 3rd, Sumvut 1911,) in the town of Ahmode, received in trust from one Naroo certain golden ornaments, value Rs. 18, and about the same time and place fraudulently appropriated the same. (Regulation XIV. of 1827, Section XL.)

Prisoner pleads not guilty.

Finding and Sentence by the Acting First Assistant Magistrate, confirmed by the Magistrate.—The prisoner does not deny that she received the ornaments from prosecutrix, but states that they were stolen from her house. The circumstantial evidence of the case, however, seems to me sufficient to convict her of breach of trust. When the ornaments were demanded from her, the morning after she received them, she made the petty excuse that she was going into the village, and though the ornaments were again asked for repeatedly, during that and the following day, she as often neglected to give them up, on some excuse or other equally trifling. Then, again, the position of the hole in the wall is suspicious. Even the witnesses called by prisoner describe it as breast high, though the Police represent it as much higher, and much too small to admit a man. One of the witnesses for the defence confirms the statement of the Police in this respect; the other says that a small man might have entered the hole.

It appears, also, that the hole had been dug from

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the *inside* of the house. This point would not have been difficult to decide by a careful examination of the hole as it first appeared; and as no attempt is made to discredit the evidence of the Police in this respect, I look upon it as bearing very strongly against the prisoner. The absence of any track of the robbers is also suspicious: being in the town, it is not probable they could have been carried far had they been found, but there would at least have been a few tracks immediately under the hole in the wall, had it been made from the outside.

If the house had been really robbed, prisoner would certainly have lost some of her own property; but this she does not even attempt to prove, though she is defended by an intelligent Vakeel, who calls two witnesses. They in a great measure support the statement of the Police.

I find the prisoner guilty of breach of trust, and sentence her to imprisonment without labour for five (5) months, and for one (1) on conjee diet. I further order her to pay a fine of eighteen (18) rupees to the woman Naroo, as compensation for the loss of her ornaments: the fine, if not paid, to be recovered under Act XVI. of 1850. (Regulation XIV. of 1827, Section XL.)

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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POONA.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 2 of the Calendar of the Poona Sessions Court for 1855. Committed by Mr. J. R. SPIERS, Deputy Magistrate, on the 8th January 1855. Tried by Mr. P. W. LEGEYT, Session Judge, on the 27th January 1855. Proceedings submitted for the consideration of the Sudder Foujdaree Adawlut.]

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POONA.

Forfeiture of Security Bond.

Prisoners.—No. 1,' Babajee Balajee, Brahmin, aged 36.
2, Tatia Munohur Goleep, Brahmin, aged 50.
3, Martund Keshow, Brahmin, aged 40.

Charge.—Forfeiting security bond, under Regulation XII. Section XXVI. Clause 2nd; in having, on the 21st November 1854, entered into a security bond before the Joint Police Officer of Poona City, to produce one prisoner Naro Bulal Dhowray, charged with forgery, whenever the said prisoner should be required by the Authorities, and failed, after due warning being given, to cause the appearance of the said prisoner before the Deputy Magistrate of Poona, on the 5th December 1854, the penalty agreed to being the payment jointly and severally of the sum of Rs. 1,000, in default to suffer imprisonment for the period of one year.

Prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The charge is fully proved, viz. that the defendants made default, in not producing the person for whom they were security. It is true that the person was apprehended, but it is not shown it was by their means, or by the information they gave. On the contrary, their information pointed in quite an opposite direction. Under these circumstances, the Court is bound to record that the forfeiture of their security bond is proved, and that they are liable to the penalties provided therein, namely the payment of Rs. 1,000, or ordinary imprisonment for one year, as provided in such cases in Clause 2nd, Section XXVI. Regulation XII. of 1827.

The Deputy Magistrate, Mr. Spiers, recommends the prisoners to mercy, in the shape of mitigation of the fine, as the ends of justice were not ultimately defeated by their default.

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POONA.

Forfeiture of Security Bond.

This Court has no power or discretion to reduce the amount of the penalty, which the law directs shall be regarded as " a sentence adjudged for a penal offence" ; but it will submit the proceedings to the Sudder Foujdaree Adawlut, with a recommendation, that should that Court see fit, measures may be adopted for the mitigation of the penalty.

Minute recorded by Mr. A. Remington.—The Deputy Magistrate deposed that the sureties not only failed to produce their principal, but actually put the Police on a wrong scent altogether, and the bailee was subsequently apprehended in Bombay on other information.

The Session Judge adopted this view, but inconsistently joined in the recommendation for the mitigation of the penalty.

I do not concur. Bail must not be allowed to be a mere nugatory form of allowing criminals a decent mode of escape, and unless the whole sum demanded as a pledge for the reappearance of the accused be exacted, these convenient allies will be always ready to aid an influential person in eluding judicial inquiry, and legal punishment.

The Session Judge may be told that the Court refuse to interfere.

Minute recorded by Mr. W. H. Harrison.—Martund, Tatia, and Babajee, appeal against the enforcement of a security bond, by which they bound themselves in Rs. 1,000 to produce one Naro Bulal, accused of forgery.

On the 5th December, the Deputy Magistrate gave the prisoners ten days to find the party, who was not forthcoming, and he was apprehended in Bombay. The ends of justice were not defeated, and the Deputy Magistrate and Session Judge recommend the mitigation of the penalty. I should mitigate it on the grounds set forth.

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These parties were arraigned in the Sessions Court as for a penal offence, the plea of guilty or not guilty required of them implying an imputation of guilt; but the forfeiture of a security bond is not a crime, and the bond does not mean to declare it so when it says that the circumstances of the default shall be proved, as evidence is, recorded in a criminal trial, and the penalty imposed, as if it had been a sentence adjudged in such case. This, therefore, was not legal procedure, in my opinion.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge, on the question of the mitigation of the penalty.

Opinion recorded by Mr. M. Larken.—I would not interfere.

Final Resolution of the Sudder Foujdaree Adawlut.—The Session Judge is to be informed that the Court see no cause to interfere.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

TANNA.

[Petition of Hurdyal bin Sewrutun to the Sudder Foujdaree Adawlut, praying the remission of imprisonment imposed on him by Mr. R. H. PINHEY, Officiating Senior Assistant Magistrate of Bassein, on the 9th October 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Forfeiture of Security Bond.

Decision of the Officiating Senior Assistant Magistrate in the Case of Hurdyal bin Sewrutun.—Hurdyal bin Sewrutun, caste Rajpoot, aged 32, inhabitant of Deberee, in the Oomburgaon Péta, of the Sunjan District of the Tanna Collectorate. The prisoner was committed for trial (with four others) before the Sessions Court of Tanna, by the Assistant Magistrate, on the 2nd day of August A. D. 1854, charged with gang robbery with force, by night, at the village of Yolwud, in Péta Oomburgaon, of the Sunjan District of the Tanna Collectorate.

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Forfeiture of Security Bond.

(Regulation XIV. of 1827, Section XXXVII. Clause 4th.)

Prisoner was acquitted by the Sessions Court, as sufficient evidence did not appear against him to establish his guilt; but as great suspicion attached itself to him, he was forwarded by the Session Judge of Tanna to the Magistrate, with his letter No. 1116, dated 11th September 1854, and by the Assistant Magistrate (in charge S. S.) he was forwarded to the Assistant Magistrate in charge of the Sunjan District, on the following day, that he might take such precautionary measures as he might deem necessary to secure prisoner's future good conduct.

In compliance with the above instructions, and under the provisions of Section XXV. Regulation XII. of 1827, the Assistant Magistrate called on prisoner to find a security for his refraining from robbery, and being of good conduct, for the space of two years, the security being bound over in the sum of Rs. 100, to be commuted, in case of non-payment, into imprisonment for one year.

Prisoner agreed to give the required security at Oomburgaon, whither he was accordingly forwarded.

On the 25th September 1854, the Police Officer, finding that prisoner was unable to provide the necessary security for his good conduct, returned him to the Assistant Magistrate.

Prisoner, on being questioned by the Assistant Magistrate, states that he cannot find the required security, nor any security at all.

He is, therefore, ordered into confinement for two years, under, and agreeably to, the provisions of Clause 1st, Section XXVII. Regulation XII. of A. D. 1827.

Reviewed by the Acting Magistrate.—The warrant has been signed by the Acting Magistrate for one year's imprisonment. In case of there being a necessity for detaining the prisoner longer, the Assistant Magistrate

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Forfeiture of Security Bond.

in charge of Sunjan will be good enough to submit a report in English. I presume the quotation of the law (Clause 4th, in paragraph 1) to be a clerical error.

Substance of the Petition of Hurdyal bin Sewrutun.—The order of security has been passed against me without my having committed any offence. I was acquitted of the charge on which I was arraigned by the Sessions Court. I have never been convicted of any offence, nor have I committed any. I am not a resident of this country. I am suffering imprisonment under the above order. I pray, therefore, that I may be pardoned by the Sirkar. If this be deemed improper, I beg I may be set at liberty on my passing a recognizance bond, and I will then leave this country, and go to my home, to support my children and family.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—You are hereby requested to certify the papers and proceedings connected with the matter set forth in the accompanying petition from Hurdyal bin Sewrutun, convict in the Tanna Jail, which accompanied the register of petitions handed up by the Session Judge of the Konkun on the 23rd ultimo, returning this Precept duly executed, or good and sufficient reason why it has not been executed, with a report of what you may have done in pursuance hereof, within ten days after its receipt.

You are further desired to return the said petition with this Precept.

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning this Precept, within the specified time, the Magistrate of Tanna has the honour to certify the papers and proceedings connected with the matter set forth in the petition which accompanied the Precept, and which is now returned.

Further Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested

to state whether it is true that the prisoner is not an inhabitant of the Zillah.

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Forfeiture of Security Bond.

Further Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning this Precept within the specified time, the Magistrate of Tanna has the honour to state, that the prisoner herein named is not an inhabitant of this Zillah. The petition which accompanied this Precept is herewith returned.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be directed to follow the course laid down in Section XXVIII. Regulation XII. of 1827.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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TANNA.

[Notices issued by Mr. G. B. SETON KARR, Magistrate of Tanna, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 13th February 1855.]

Notices by the Magistrate.

Notice under Section XIX. Regulation XII. A. D. 1827.—Whereas persons have been in the habit of dirtying the water of the two cisterns in front of the Mahadeo Temple, at Kusba Bhewndy, Talooka Bhewndy, Zillah Tanna, by washing clothes or other articles in it: Notice is hereby given, that in future, if any one be found dirtying the water of these cisterns, and rendering it unfit for drinking, he will be punished according to law.

Notice under Section XIX. Regulation XII. A. D. 1827.—Whereas persons have been in the habit of dirtying the water of the cistern near Gunputee Temple, at Bhewndy, Talooka Bhewndy, Zillah Tanna, by washing clothes or other articles in it: Notice is hereby given, that in future, if any one be found dirtying the water of this cistern, and rendering it unfit for drinking, he will be punished according to law.

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TANNA.

Notices by the Magistrate.

Notice under Section XIX. Regulation XII. A. D. 1827.—Whereas persons have been in the habit of dirtying the water of the river within the boundaries of the villages of Selar, Nizampoor, and Sawrolee, where there is a masonry dam, by washing buffaloes, clothes, and other articles, and fishing in it, thereby rendering it unfit for drinking: Notice is hereby given, that if any one shall hereafter be found in any way dirtying the water of the said river, he will be punished according to law.

Letter from the Magistrate to the Sudder Foujdaree Adawlut.—I have the honour to forward, for submission to the Court, and for registry, three Mahratta notices (with their translations) issued by me under Section XIX. Regulation XII. of 1827, at Bhewndy, and at a masonry dam across the river, within the boundaries of the villages of Selar, Nizampoor, and Sawrolee.

Resolution of the Sudder Foujdaree Adawlut.—To recorded.

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AHMEDNUGGUR.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Petition of Moolchund Bhatey, Manager of the firm of Shewajee Umbadas, praying that a decision of the Magistrate of Ahmednuggur, in a case of alleged embezzlement, might be set aside, and the case inquired into.]

Decision of a Magistrate, in a case of alleged Embezzlement.

Return of the Magistrate to a Precept of the Sudder Foujdaree Adawlut.—The Acting Magistrate has the honour to report as follows:—

Moolchund Bhatey first petitioned this Department in A. D. 1853, stating that he was a Gomashta of the firm of Shewajee Umbadas, and established a house of business at Bombay, in the name of the firm of Bhowandas Shewshunker, employing Nanikram and Hurjeeram

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Decision of a Magistrate, in a case of alleged Embezzlement.

to transact its business, advancing them Rs. 1,00,000. That Nanikram died, and Hurjeeram for some time afterwards transacted the business, and then came to Sheogaom, having appointed Pandoorung Lucheeram in his stead. That afterwards Pandoorung Lucheeram came to Sheogaom, with goods belonging to the Bombay house; that Hurjeeram Nuthooram and Pandoorung divided this property; that Pandoorung, having made over his share to him (petitioner), he (petitioner) prosecuted Nuthooram, and the mother of Hurjeeram's son, a minor, under Act XIII. of 1850, for embezzlement, to the extent of Rs. 9,451. Nuthooram replied, that he was a partner in the shop of Hurjeeram and Nanikram at Sheogaom, but had nothing whatever to do with the Bombay firm of Bhowandas Shewshunker, and that Hurjeeram died six years previous to 1853, having carried on the business of the Sheogaom shop for four years. Pandoorung Lucheeram replied, that the effects of the Bombay firm of Bhowandas Shewshunker, which he had received, he made over to Hurjeeram and Nuthooram, but did not take a receipt; that out of a sum of Rs. 14,172, due on account of a shop at Panwell, Rs. 12,750 were paid by him to complainant Moolchund, with whom he came to a separate settlement by bond for the remaining Rs. 1,422.

Hurjeeram's son Dowlutram replied, that being of tender age, he knew nothing about the Bombay firm, or of any effects of the Bombay firm having been brought from thence to Sheogaom.

In his first petition, Moolchund said he did not then wish to prosecute Pandoorung Lucheeram, though he produced witnesses to the point that Pandoorung Lucheeram had four or five years before brought some carts from Bombay to Sheogaom. The witnesses said three carts were brought, but that they did not know what they contained. Of the Rs. 9,451, for the embezzlement of which

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Decision of a Magistrate, in a case of alleged Embezzlement.

Moolchund prosecutes, he says that Hurjeeram drew Rs. 5,500, which were at the credit of the Bombay firm with Huree Ramdas Hindoomul, of Poona.

Mr. Bell, the Acting Magistrate, dismissed the complaint, on the ground that the cause of action had arisen previous to Act XIII. of 1850 being passed. Moolchund now repeats his prosecution, under Regulation XIV. of 1827, Section XL.

It may be not improbable that property belonging to the Bombay firm was made away with and brought to Sheogaom, considering no satisfactory acquittance is shown for the property apparently in trust of the Bombay firm. But it does not appear that a criminal prosecution can be entertained, either against Hurjeeram's son, a minor, or against Nuthooram, whose responsibility to Moolchund for embezzlement is not made out, as, supposing he received the property, he did not receive it from Moolchund; and Lucheeram, moreover, was employed by Hurjeeram, not by Moolchund. Under all the above circumstances, and considering the transaction constituting the cause of action of an old date, it appears to the Acting Magistrate that Moolchund had better proceed by civil action against the parties, and should, in the course of such civil action, any criminal act of fraud, &c. transpire, and be supported by sufficient proof, it can form the subject of a criminal prosecution.

Minute recorded by Mr. A. Remington.—I think the Court ought not to interfere in this case. It was a matter entirely for the Magistrate, and he has decided that the question between the parties must be determined by a Civil Court.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN MARCH 1855.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

1855 March 7.

BROACH.

[Case No. 6 of the Criminal Return of the Magistrate of Broach for December 1854. Tried by Mr. E. L. JENKINS, Magistrate, on the 2nd and 19th December 1854. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of Kusundas and Jugjeewun.]

Prisoners.—No. 1, Kusundas Hurgowun, Sonee, aged 28.
2, Jugjeewun Hurgowun, Sonee, aged 22.
3, Veejbhookun Hurgowun, Sonee, aged 19.

Robbery by Day, with Force; and Receipt of Stolen Property, knowing it to be such.

Charge.—Robbery by day, with force (Regulation XIV. of 1827, Section XXXVII. Clause 3rd); in having, on or about the 18th November 1854, (corresponding with Kartik Wud 13th, Sumvut 1911,) forcibly entered the house of Ootumram and Icharam Gela, of the city of Broach, and stolen from thence property, consisting of silver and golden ornaments, &c. of the value of about Rs. 230-8-7.

And secondly, with the receipt of stolen property,

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BROACH.

Robbery by Day, with Force; and Receipt of Stolen Property, knowing it to be such.

knowing it be such (Regulation XIV. of 1827, Section XLI. Clause 1st); in having received, and retained in their possession, without giving information to the Police Authorities, articles of the value of Rs. 108-1-10, which were stolen on the above occasion; some of the said articles, of the value of Rs. 1-14-7, having been found in their shop, and the remainder, of the value of Rs. 106-3-3, having been found in their house, on the 21st November 1854, (corresponding with Margsheersh Shood 1st, Sumvut 1911,) the said articles having been received by them, knowing them to be stolen property.

The prisoners plead not guilty.

Finding and Sentence by the Magistrate.—On considering the evidence in this case, the Magistrate finds that articles of the value of Rs. 1-14-7, which are recognized by the complainants, were found concealed in a shop of which the prisoners, who are brothers, are said to be joint proprietors. The prisoners themselves admit that the said articles do not belong to them, and prisoners Nos. 1 and 2 say that they suspect that they may have been placed in their shop by one Ambydas, who came there the day before they were found. Ambydas of course denies the fact in toto.

There is every reason to suppose that the other articles which were stolen were received by the prisoners, but they had been broken up, or altered so that they could not be recognised by the complainant.

The Magistrate thinks that there can be very little doubt that the whole of the prisoners were concerned in in the transaction; but as it is stated that the prisoner No. 3 lives separately from the others, and was not in the shop on the day before the articles were found, the Magistrate thinks it right to give him the benefit of the doubt which exists in regard to his knowledge of the matter, and he is therefore acquitted and discharged.

The other two prisoners are informed that they are

found guilty of the receipt of stolen property, knowing it to be such; and are sentenced to be imprisoned for nine (9) months, with hard labour, and afterwards to pay a fine of fifty (50) rupees each, or to be imprisoned for a further period of three (3) months, with hard labour.

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BROACH.

Robbery by Day, with Force; and Receipt of Stolen Property, knowing it to be such.

The amount of fine, if paid, to be made over to the complainant, in compensation for his loss.

Minute recorded by Mr. A. Remington.—The prisoners were acquitted of the robbery, and the evidence does not satisfy me of their being guilty of the charge of which they have been convicted. The article identified by complainant was not found on first search of their house, and an after discovery is always open to suspicion.

The Magistrate postponed a decision for thirteen days, and the reasons recorded for his judgment, when that was pronounced, were not convincing. At the close of the examination, he stated that the Magistrate did not consider it necessary to take the evidence of the prisoners' witnesses, and yet, without hearing them, he records that there is every reason to suppose they were in possession of the other stolen articles, in respect to which he had precluded himself from making any remark.

I would therefore annul the conviction.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is annulled, and the prisoners Kusundas and Jugjeewun are to be discharged.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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KAIRA.

[Case No. 69 of the Calendar of the Ahmedabad Sessions Court for 1854. Committed by Mr. J. E. OLIPHANT, Acting First Assistant Magistrate of Kaira, on the 27th July 1854. Tried by Mr. C. WALTER, Acting Assistant Session Judge, on the 1st, 3rd, 5th, and 17th August 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

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KAIRA.

Gross Misconduct, and Neglect of Duty as a Police Officer.

Prisoner.—Koowurdas Mooljee, Pateedar, aged 47.

Charge.—Gross misconduct, and neglect of duty as a Police Officer; in that, on the 5th day of January A. D. 1854, (Poush Shood 7th, Sumvut 1910,) at the village of Allarsa, Talooka Napar, Zillah Kaira, four persons, by name Jethia Kanoora, Meethia Kanoora, Kanoora Balia, and Madhia Kanoora, did assault, beat, and wound one Gullia Kurwa, from the effects of which assault and wounding he, the said Gullia Kurwa, died on the 11th January A. D. 1854, (Poush Shood 12th, Sumvut 1910,) and he, the prisoner Koowurdas, being Police Patel of the said village of Allarsa, and well knowing that the persons aforesaid had beaten and wounded the said Gullia Kurwa, and also that Gullia died from the effect of the beating and wounding done on him by the said persons, did wilfully, and with intent to procure the escape with impunity of the said persons, and so to defeat the ends of justice, neglect to make investigation as to the wounding and death of the said Gullia Kurwa, to report the same to the superior Police Amuldars, and to apprehend the persons abovementioned, who had assaulted, wounded, and so caused the death of the said Gullia Kurwa.

The prisoner pleads not guilty.

Finding and Sentence by the Acting Assistant Session Judge.—The evidence for the prosecution is, in the opinion of the Court, clear, and proves not only the cognizance of the prisoner of the cause of death of the deceased Gullia, and that he failed to report the same, or institute proper inquiries, which in itself was a gross dereliction of duty; but it also shows that he did all he could to stifle inquiry, by standing security for Rs. 20 towards the funeral expenses of the deceased, on the morning after his death, which can only be looked upon in the light of hush-money. His defence is based on two grounds—1*st*, that the whole thing is false, and that

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the charge is a conspiracy against him, got up by opposition Muttadars; 2*nd*, that it must be false, inasmuch as, at the time that the principal facts which appear against him are said to have occurred, he was at Napar, and not in his village; thus wishing to set up an *alibi*. With regard to the 1*st* point, the Court thinks that it is very possible that other Muttadars may have had something to do with getting up the charge, though no evidence exists to the fact: they may have been influenced by motives of enmity, or a desire of profiting by his downfall; but assuming this, and that they acted from wrong motives, yet this in no way makes the facts they bring to light false, nor does it *per se* cast any incredibility on them.

The Court thinks that this is possible, inasmuch as the Muttadars of the 'bhag' to which the deceased belonged would be equally anxious to obtain the punishment of, as the Mookhee is said to have been to screen, the offenders, as inhabitants of his own bhag. Though this is assigned as the object of the Mookhee, yet it does not appear at all necessary to assume it, to account for his conduct; for the fact of his having failed to report the assault itself when it occurred (probably because he considered it trivial) would be in itself sufficient to cause him to do his utmost to conceal its fatal result.

The 2*nd* ground of defence is, that he was not in the village at the time when the principal facts alleged against him are said to have occurred, that is on the 11th January 1854, and the morning of the 12th. To prove this, he brings two witnesses, who say that they accompanied him on the morning of the 11th to Napar (the district town), where they received money from the treasury at 5 in the evening; but that instead of returning to their village, they spent the night at Napar, and returned only late the next day to Allarsa. Now, independent of the statements of the Dher witnesses

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themselves, it is clear, from the deposition of the Havildar (witness No. 7), that the Mookhee *was* in the village on the evening of the 11th. On the other hand, it is equally clear, from the receipt which has been recorded for the defence, that the Mookhee was at Napar some time that day. Hence, the only incredible thing in these two witnesses' statements, is the main exculpatory fact which they depose to, viz. that they passed the night at Napar, instead, as would be expected, of returning to their village. That they were absent from the village is incredible, from two circumstances—1*st*, that if they had really remained at Napar, the witnesses would have stated at whose house they put up. Such would have been by far the best evidence; but on this point they are actually silent. 2*nd*, that if the charge be false, and got up through enmity, it is certain that people thus conspiring to ruin him would not, of all others, have chosen for the date of the alleged misconduct a date on which he was actually absent from the village, and could thus have disproved their charges at once. The defence, therefore, in the opinion of the Court, is totally incredible, and unsatisfactory; and the Court therefore convicts the prisoner of the charge against him, viz. gross misconduct, and neglect of duty as a Police Officer; in that, on the 5th January 1854, at the village of Allarsa, in the Napar District, four persons, named Jethia Kanoora, Meethia Kanoora, Kanoora Balia, and Madhia Kanoora, did assault, beat, and wound one Gullia Kurwa, from the effects of which he died on the 11th idem; and he, the prisoner Koowurdas, being Police Patel of the said village, and well knowing that the persons aforesaid had beaten and wounded the said Gullia Kurwa, and also that Gullia had died from the effects of his wounds, did wilfully, and with intent to procure the escape of the said persons, and so defeat the ends of justice, neglect to

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make any investigation as to the wounding and death of the said Gullia, or to report the same to the superior Authorities, or to apprehend the offenders.

And the Court having found the prisoner guilty as above, proceeds to take into consideration the responsible situation in which the prisoner was placed as Mookhee of Allarsa, as the head of the community, and as the representative of Government; and further, to consider the nature of the offence committed, and the punishment provided therefor in Regulation XII. of 1827, Section VIII. Clause 1st; having done which, the Court proceeds to pass the following sentence:—

That you, Koowurdas Mooljee, be imprisoned for the space of one (1) year, and at the expiration of that period you do pay a fine of five hundred (500) rupees, or suffer imprisonment for a further period of one (1) year.

Resolution of the Sudder Foujdaree Adawlut.—The case is not without suspicion, owing to the enmity of the bhagdars one with another, and the eager desire of the Dhers to secure the conviction of the Mookhee, whom they did not accuse of neglect until six weeks after Gullia's death, though Napar, the District Kutcherry, is only five koss from their village.

The only independent witness, Rugnath Rambhaee, contradicted himself at the trial; and the fact, therefore, of its being well known throughout the village that Gullia's death had been produced by violence, was not so well established as it might have been.

Though the Court are not disposed to interfere with the conviction, they mitigate the punishment, as the statement of the Dhers would seem to be exaggerated, and given under a strong bias adverse to the prisoner.

Under these circumstances, the sentence is mitigated to a fine of one hundred (100) rupees, or six (6) months' ordinary imprisonment.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

KAIRA.

[Case No. 115 of the Calendar of the Ahmedabad Sessions Court for 1854. Committed by Mr. J. E. OLIPHANT, Acting First Assistant Magistrate of Kaira, on the 30th October 1854. Tried by Mr. H. NEWTON, Acting Session Judge, on the 8th and 9th February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.

Murder.

Prisoner.—Puthla Wukta, Wagree, aged 18 or 19.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI.); in having, on the night of the 5th October 1854, (corresponding with Ashwin Shood 14th, Sumvut 1910,) at the village of Asodur, Talooka Napar, in the Kaira Division of the Ahmedabad Zillah, wilfully, and without justifiable or extenuating cause, inflicted wounds with a sword on the body of one Dulla Wukta (his brother), from the effects of which wounds the said Dulla Wukta then and there died.

Finding and Sentence by the Acting Session Judge.—The prisoner is charged with having murdered his brother, and pleads not guilty. The circumstances in evidence against him are concisely as under. The depositions of his two brothers (witnesses Nos. 4 and 5) and the Patel (witness No. 11) show, that about the end of A. D. 1853 the prisoner left his village, carrying off with him his deceased brother Dulla's wife; that they remained absent about five or six months, and that on their coming back to another village in the neighbourhood, Dulla went there, and caused his wife to be restored to him. She has before the Court refused to criminate herself, by stating the object and character of her residence with prisoner, but the evidence leaves no doubt that a criminal intimacy subsisted between them. About a month after his return, prisoner told his brother Nara that he had applied to Dulla for repayment of Rs. 2 which he

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had given to Dulla's wife, and that Dulla had refused to give them, abused him, and stood up to strike him. The wife Umrutee (witness No. 6) admits that these Rs. 2 were given her, that prisoner applied to her husband for payment, and that the matter resulted in their abusing each other, and in prisoner's sitting down outside her husband's house, until their father Wukta was called and removed him. About eight or nine days before Dulla's death, witness No. 4, at his request, told prisoner not to continue his intimacy with Umrutee, when prisoner threatened to kill that witness if he spoke again on the subject, and said that he would kill Dulla. All these points are placed beyond doubt by the depositions of the prisoner's brothers, whose relationship to him, and reluctant demeanour before the Court, are sufficient guarantee of their truthfulness.

The next circumstance is the murder of Dulla. Umrutee deposes, that she got up one night on hearing a noise, which she supposed to be the lowing of a buffalo, and found her husband, who had gone to sleep in front of the house, dead, with his head nearly severed from his body.

She saw a man running away with a sword in his hand. He had a single garment round his loins, and his height was about that of prisoner; but she did not identify him further. She gave the alarm immediately, and in a few minutes the Patel (witness No. 11), with the Village Watchmen (witnesses Nos. 7 and 8), reached the house. They found two mortal sword-cuts on Dulla's throat, and three wounds about his hands. Umrutee pointed out the direction in which she had seen the man with the sword running, and in that direction they found the tracks of a man with shoes, commencing in the immediate vicinity of the corpse. From their depositions, those of the Patel (witness No. 11), and the Acting District Police Officer (witness No. 12), and the plan No. 13, it is seen that these tracks did not leave Dulla's premises by

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the front or usual entrance, but through a gap in a hedge at the side of the house, shown to have been recently made, inasmuch as sap of the broken (or cut) milk-bushes was exuding when the search was taken up. They then proceeded by a lane in an indirect line to the hedge surrounding the houses of prisoner, his brothers Sudla, Nara, and others. Here, again, they were found not to go through the opening ordinarily used, but through a part of the hedge, where the thorns had evidently been removed and replaced. From this place, they were followed past the houses of Sudla and Nara, and up to the prisoner's door, or within five or six feet from it. A similar series of tracks were also followed up uninterruptedly from the prisoner's house along the same line to the corpse.

The tracks, thus examined, were found to be of a peculiar description. They were known at once by their form (as deposed by deponents Nos. 7, 8, 9, 11, and 12) to be prints of a kind of shoe called 'kishoree,' the peculiarity of which is, that its sole is nearly of the same breadth all along, while the soles of shoes of other descriptions are narrow in the middle. One of the shoes had also left marks of a double heel, *i. e.* of two layers of leather, the one projecting beyond the other, while the other shoe had but one such layer at the heel. The prisoner's house was immediately searched, and in a basket suspended from the roof were found a pair of 2 kishoree shoes, one of which had a double heel, while one layer of the heel of the other shoe had been rubbed off. They are proved to have belonged to the prisoner, to have been usually worn by him up to the time of the murder, and to have corresponded exactly with the tracks. It is also shown that prisoner purchased these shoes in another village; that shoes of this description cannot be bought in the village where the murder was committed, and that they are so rare there, that the

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District Police Officer did not find one person in a crowd of 150 or 200 men wearing them. One of the shoes found in the prisoner's house had also a spot of blood on it, which is proved to have been moist when first seen by the Village Watchmen and Patel, and scarcely dry when the District Police Officer arrived at 8 A. M.

The prisoner, when first seen after the murder, appears to have had but a single article of clothing on his body, thus corresponding in this particular with the description given by Umrutee of the person whom she saw running from Dulla's corpse with a sword. This article of clothing was a 'chadur,' and on being examined, it also was found to be stained with a mark of fresh blood.

The sword with which the murder was committed was not found until after the arrival at the village of the District Police Officer. He ordered ten or fifteen men to search for it at a short distance on each side of the tracks, and the sword and scabbard before the Court were found in a bush within a few feet of the tracks just before they entered the enclosure within which prisoner lived. This sword, when found, was covered with fluid blood, and bore marks of having been grasped by two hands. The deposition No. 5 shows, that about fifteen days before the murder a sword, with a new scabbard, such as that in Court, and in other respects resembling it, was seen by his brother in prisoner's hand, and that prisoner, who had never before or after been seen with a sword, gave a very strange account of the way in which he obtained it. He is also shown to have denied having a sword, when questioned by his other brother Nara about the same time.

To this evidence must be added the prisoner's proved confession before the District Police Officer. He now repudiates it; but the depositions of four unexceptionable witnesses leave no doubt of its authenticity. It admits

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every circumstance established, and agrees with those circumstances in every particular. The prisoner's defence is a mere denial of the charge.

The evidence against the prisoner is thus, in the Court's opinion, complete. There is no ground on which a doubt as to his guilt can be entertained, and he is therefore convicted of wilful murder; in having, on the night of the 5th October 1854, (corresponding with Ashwin Shood 14th, Sumvut 1910,) at the village of Asodur, Talooka Napar, in the Kaira Division of the Ahmedabad Zillah, wilfully, and without justifiable or extenuating cause, inflicted wounds with a sword on the body of one Dulla Wukta (his brother), from the effects of which wounds the said Dulla Wukta then and there died.

In considering the sentence to be recorded, the Court cannot find a single extenuating circumstance, unless the prisoner's youth may be viewed as such. The murder is that of a brother, apparently long premeditated, and most savagely executed. The prisoner had also received no provocation, but been himself the injuring party. The painful duty therefore devolves on the Court, of awarding the extreme penalty of the law, and the following sentence is passed, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut:—

That you, Puthla Wukta, be hanged by the neck till you be dead, at the usual place of execution at Ahmedabad, under Regulation XIV. of 1827, Section XXVI. Clause 4th.

* * * * * *

Before closing proceedings, the Court records its sense of the able manner in which the case has been prepared. The activity and intelligence shown by the Village Police, the promptness with which the District Police Officer repaired to the scene of the crime, (he having stated in Court, that he left home on foot so immediately on the receipt of intelligence as to have gone a koss and a

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half before his tattoo came up with him,) and the care and judgment shown by the Assistant Magistrate in supplying and noting the relevant points in evidence, form a very marked contrast with a large number of cases handed up, in which the Sessions Court is harassed by the alternative of either deciding on less evidence than was obtainable, or of procrastinating trials where delay is undesirable; and its labours doubled, in consequence of defects in proof, which a little more energy or attention on the part of the Police or Magisterial Officers might have remedied.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

The Session Judge is to be informed, that the Court fully concur in his remarks on the promptitude and intelligence displayed by the Police in following up the murder, and their subsequent investigation of this case.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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POONA.

[Case No. 75 of the Calendar of the Poona Sessions Court for 1855. Committed by the Honorable G. A. HOBART, Second Assistant Magistrate, on the 21st December 1854. Tried by Mr. P. W. LEGEYT, Session Judge, assisted by Assessors, on the 7th February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Attempt to Commit Murder.

Prisoners.—No. 1, Yesoo wulud Raghoo, Chambar, aged 25.
2, Taojee wulud Huree, Ramoosee, aged 18.

Charge.—Attempt to commit murder (Regulation XIV. of 1827, Section I. Clause 2nd, and Section XXVI. Clause 1st); in having, on the 1st day of August 1854, (corresponding with Shrawun Shood 7th, Shuké 1776,) near the village of Dhayree, in Talooka Havellee, in

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the Poona Zillah, in company with others, being themselves armed with dangerous weapons, assaulted with the same, with intent to murder, certain of the Poona City Police, under the command of their Officers, while engaged in the lawful discharge of their duty.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The prisoners in this case are charged with an attempt at murder, in the manner set forth in the charge; and the evidence of Mr. Spiers and the Jemadar Huree bin Morojee has fully proved, that when a party of Police advanced towards these men, and three others, and called to them to surrender, the order was met by the discharge of a gun loaded with ball, which whizzed by Mr. Spiers, and by stones being slung at them by the others; and that all the party had offensive weapons, and used menacing gestures.

The evidence of Mr. Spiers goes to prove that Taojee (prisoner No. 2) was the man who fired the first shot, and that the gun was found in his hands. The Jemadar proved it was loaded with ball. Three or four discharges had been made intermediately, and one just before the seizure, at which time Yesoo (prisoner No. 1) had a sling in his hand, and three of the gang were lying wounded on the ground, so that Taojee was the only person who could have fired the gun, which was found in his hand directly afterwards. The defence of the prisoners amounts to nothing, and they have not attempted to disprove any of the facts sworn to by the Police.

The suggestion that as no ramrod was found with the gun, it could not have been loaded, is met by the facts of the several shots, and of it being found loaded, and may be easily accounted for by the ramrod having been thrown away.

Yesoo (prisoner No. 1) had escaped some months previously from the Jail in company with Matharia, who

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was one of the wounded men, and who died of those wounds after his capture.

Matharia was one of the tribe of the Poorundur Ramoosees, who have so long given trouble, and created disturbance in that district, and it is said that the prisoner Taojee (No. 2) was his near relation. Yesoo was implicated in the same disturbances, and when he escaped from prison, had been detained there in default of finding security for his good behaviour.

That the prisoners were, with others, on the 1st of August, in the jungles of Dhayree, and that guns loaded with ball were fired at the Police by the gang, and other deadly weapons were in their hands, is considered proved.

The attempt at murder is proved, by the fact of the balls having been fired at the Police, which, had they taken effect, might have caused loss of life. It is a rule of law, laid down in Russell on Crime, Vol. I. page 32, that when there is "a general resolution against all opposers, and such resolution appears upon evidence to have been actually and explicitly entered into by the confederates, or may be reasonably collected from their number, arms, or behaviour at or before the scene of action, and homicide is committed by any of the party, every person present, in the sense of the law, when the homicide is committed, will be involved in the guilt of him that gave the mortal blow."

In the present case, fortunately, no homicide has been committed, but an attempt at homicide has been proved to have been made by the prisoner Taojee (No. 2); and it is also proved the prisoner Yesoo (No. 1) was present, and used another offensive weapon, which, though not a deadly one, was of such a nature as to leave no doubt that he was actuated by a resolution in common with Taojee and others, who had swords, and drew them against all opposers.

Under this view of the case, the Court records a

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conviction of an attempt to murder, as set forth in the charge at the head of these proceedings, against both prisoners, which is fully concurred in by all the Assessors. Copy of the warrant under which Yesoo (prisoner No. 1) has been convicted of escaping from prison, and sentenced to two years' imprisonment, is recorded; it is dated the 15th November 1854.

The Court have given its best consideration to this case, and its attendant circumstances. The prisoners at the bar are members of a gang of robbers who have for years past infested the vicinity of Poona, and committed every species of crime, from murder and arson to petty robberies, in the City and Camp. That the habits of these people are inveterate, the very fact of Matharia (dead) and Yesoo (prisoner No. 1) being found, as they were on the 1st of August last, six months after their escape from Jail, proves. Numerous robberies had occurred about the same time, which were generally attributed to this gang. Of the arms this day produced in Court, the gun is a Regulation Army fusil, and one of the swords a Field Officer's Regulation sword; and it is within the Court's knowledge, that another of the swords was recognized and claimed by an Officer of the 78th Highlanders, as one not long previously stolen out of his house, with other things. This was given up to him on his departure to England on duty, a short time since. The reckless daring exhibited on this occasion shows the desperate disposition of these men. The Court, under all these circumstances, considers it an imperative duty to pass on them such a sentence as will for ever rid society of men who, and whose associates, have proved themselves pests of such society, and whom neither examples of severity nor turns of fortune will reclaim from their propensity to violence and depredation.

The following sentence is passed, subject to the confirmation of the Sudder Foujdaree Adawlut :—

That you, Yesoo wulud Raghoo, and you, Taojee wulud Huree Chowhan, be transported for the term of your natural lives, beyond seas, to such place as the Governor in Council may direct.

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Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

The allusion to the prisoners' career as robbers, made in the Session Judge's finding, should have been supported by the testimony of competent Authority.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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AHMEDABAD.

[Case No. 133 of the Calendar of the Ahmedabad Sessions Court for 1854. Committed by Mr. W. A. RITCHIE, Acting First Assistant Magistrate, on the 28th November 1854. Tried by Mr. H. NEWTON, Acting Session Judge, on the 14th February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Runchore Kesa, Mochee, aged 30.

Murder; and Attempt to Murder.

Charge.—Murder; and attempt to murder (Regulation XIV. of 1827, Section XXVI. Clause 1st, and Section I. Clause 2nd); in having, on the night of Friday, November 3rd, 1854, (corresponding with Kartik Shood 14th, Sumvut 1911,) at Dholka, in the Ahmedabad Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Poonja Dewa, his wife's paternal uncle, by wounding him with a knife while he was asleep in his (prisoner's) house; and in having, at the same time and place, deprived of life his own wife Heervow, by inflicting on her with the same knife a wound in the stomach, from the effects of which she died during the same night; and further, in having, at the same time and place, inflicted wounds with the same knife on various parts of the person of one Jetha Poonja, with intent to deprive him of life.

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On this charge being stated to the prisoner, he pleads guilty to having deprived Heervow and Poonja of life; but says that he detected them in the act of adultery: he also pleads guilty to having wounded Jetha on his crying out, but without intent to take away his life.

Finding and Sentence by the Session Judge.—The prisoner is charged with having murdered his wife, and her paternal uncle, and with having attempted to murder the latter's son. He has pleaded guilty to having inflicted the wounds, from the effects of which the two former died, and which he is charged with having inflicted on the latter; and as, after hearing the evidence, he has confirmed this plea, he might be convicted to this extent on his own admission. He has, however, qualified his confession, by stating that he killed his wife Heeroor or Heervow and her uncle Poonja on finding them in the act of adultery, and that he wounded Poonja's son Jetha, with no intent to murder him; and since, under Clause 2nd, Section XXXVII. Regulation XIII. of 1827, it would be necessary to admit these exculpatory circumstances in his favour, were he convicted on his confession only, the Court has judged it needful to enter upon the evidence of the case.

The view taken by the Acting Session Judge of the Clause above quoted is, that the Court is bound to take the criminatory and exculpatory circumstances in a prisoner's confession together, and barred from acting on the criminating portion exclusively, *in those cases only in which such confession is made the sole ground of conviction.* It does not appear to have been intended that a prisoner's admission that he deprived another of life might not be weighed as evidence against him so far, and proof be taken to show, further, that the crime admitted did not take place under the exculpatory circumstances alleged. A case apparently of this character, (*i. e.* one in which a prisoner's qualified confession was used as evidence against

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him on the point admitted, and other evidence then taken on the points which were denied,) was before the Judges of the Sudder Foujdaree Adawlut on May 20th last (see Printed Reports, Vol. I. page 484), and passed without remark; and if this view be correct, the prisoner's admission that he killed his wife and her uncle may be used against him, and evidence recorded to show that the circumstances under which they were deprived of life were not of an extenuating character, as urged in his defence.

Should it, however, be held contrary to the provision quoted, to use the exculpatory portion of the prisoner's confession against him, while other portions, which, if true, would be favourable to him, are disproved, the Court remarks, that in the present case there is sufficient evidence, apart from the prisoner's admission, to prove that he inflicted the wounds from which Heervow and Poonja died. He is shown to have lain down in a closed room, with three other persons, at about 7 o'clock on the evening of the day deposed to, and about an hour or two afterwards, one of those three persons was found dead from wounds, the second dying, the third wounded, and the prisoner absent. He was subsequently traced to a village some 20 koss distant, in the Cambay territory, and his inability to account for his own escape, and the wounds inflicted on all whom he left behind, would of itself be almost conclusive of his guilt. Added to this, however, there is the direct testimony of the intelligent witness No. 10, who, immediately after he was wounded, saw the prisoner, with something like a knife in his hand, run out by the smaller of the two doors leading from the room. He states that he saw the prisoner by moonlight, and as it was the evening before full-moon, he must have had every facility in this respect. There is, further, the dying declaration of Heervow to the same effect, naming the prisoner as the perpetrator of

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the crimes, and describing the same smaller door as that by which he afterwards made off. This declaration is proved to have been given five or six hours before the deponent's death, on solemn affirmation, before constituted Authority, and it is not vitiated by the circumstance that it was not taken in the prisoner's presence. (See the case of Bapoo, Bellasis' Reports, page 141.)

The only question, then, remaining, is whether the prisoner's plea, that he found his wife and Poonja in the act of adultery, is true or not. For many reasons, the Court is compelled to consider it unquestionably false. Those reasons are as under :—

1*st*.—The prisoner is stated by the witness No. 12 to have given another reason for the deed immediately on being apprehended.

2*nd*.—Before the District Police Officer, he did not mention a word against the character of his wife or Poonja, but repeated the reason which he had stated on his apprehension; and it was not till twenty days after his first statement that he accused his victims of adultery.

3*rd*.—The relationship of the parties, Poonja being the brother of Heervow's father, would preclude the admission of such a plea under any circumstances short of proof.

4*th*.—It is against all probabilities that the murdered man and woman should have committed adultery in the same room with the prisoner; Poonja, too, having lain down on the prisoner's bed.

5*th*.—Every wound, both on Heervow and Poonja, was on the fore part of the body, and on the left side, which would not probably have been the case had prisoner attacked them in the position which he states.

6*th*.—Prisoner states that he wounded them both in the same bed, and immediately afterwards Poonja was found dead on the bed on which he had lain down, and Heervow lying, with her bowels laid open, and

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protruding, on another. As neither party could have moved after the infliction of the wounds which caused their death, the prisoner's statement is incredible.

On these grounds, and others which might be adduced, the Court cannot entertain a doubt of which to give the prisoner the benefit. He is proved to have committed a double murder, and can show no extenuating circumstances.

The motive for the grievous crime is doubtless that which was given by the prisoner himself when he admitted it before the District Police Officer, namely a sense of injury, at having been unable to get his wife entrusted to him until a few months previously. The wife's father (witness No. 11) manifested no desire to depose to his son-in-law's detriment; but his evidence shows that the prisoner has been usually unable, from idle habits, to support his wife, or find a house for her, and that it became needful to take the suretyship of another person that she should be provided with food and clothing. On this account, the prisoner appears to have entertained a malice, which he concealed for months, and then gave vent to only by murdering the woman, who may naturally have had some disinclination to live with him (though it is not proved), and her uncle, whom he may have looked on as one with her father in preventing her; but by wounding the latter's son, a boy of twelve or thirteen years. The prisoner admits, however, that his wife lived with him during the last five months of her life. His last defence sets aside the first, and makes out that he had no intention of injuring his wife, until he suddenly saw her engaged in adultery.

With respect to the boy Jetha, there may be a question whether the prisoner intended to deprive him of life, or only to do him some bodily injury. No cause, however, is shown, why he should have wounded him at all, as the boy deposes that he was asleep when first

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wounded, and the Court can only conclude that the prisoner intended to deprive him of life, and was in a state of recklessness, which made him ready to shed blood without discrimination. The scars on the boy's person show that the wounds which he received were not serious; but the weapon was apparently a deadly one, and the same stabs, had they taken effect on other parts of the body, might have been mortal.

The Court has not recorded the deposition of the deceased Gulal, since the prisoner was not present when that portion of it which is proved by deponent No. 7 was taken by the Joint Police Officer of Dholka, and the Court has not judged it necessary to delay the case in order to summon witnesses to the subsequent portions, since the evidence against the prisoner is complete without it.

For the above reasons, the Court convicts the prisoner of murder, and attempt to murder; in having, on the night of Friday, November 3rd, 1854, (corresponding with Kartik Shood 14th, Sumvut 1911), at Dholka, in the Ahmedabad Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Poonja Dewa, his wife's paternal uncle, by wounding him with a knife while he was asleep in his (prisoner's) house; and in having, at the same time and place, deprived of life his own wife Heervow, by inflicting on her with the same knife a wound in the stomach, from the effects of which she died during the same night; and further, in having, at the same time and place, inflicted wounds with the same knife on various parts of the person of one Jetha Poonja, with intent to deprive him of life.

The Court passes the following sentence, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut:—

That you, prisoner Runchore Kesa, be hanged by the neck till you be dead, at the usual place of execution at

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Ahmedabad, under Regulation XIV. of 1827, Section XXVI. Clause 4th.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner in this case admits the acts charged against him, but pleads in justification that he took the lives of his wife and her uncle, they being in the act of adultery.

His plea should have been entered as not guilty.

The Session Judge correctly proceeded with the trial, however, as if such plea had been definitively recorded; and the Court agree with his conclusion, that the justification set up is not made out. It was not adduced as the provocation until some time after the prisoner's apprehension, and it is, in itself, violently improbable under the circumstances.

The conviction and sentence are therefore confirmed.

The prisoner's confession ought to have been proved, before it was recorded against him.

The precedent quoted by the Session Judge, and which was not the ruling of the Sudder Adawlut, scarcely applies to the question of law raised. His view on the point is correct. The evidence in this case, however, supplies proof sufficient for conviction, irrrespective of the admissions of the accused.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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KHANDEISH.

[Case No. 317 of the Criminal Return of the Magistrate of Khandeish for December 1854. Tried by Captain J. ROSE, Assistant Magistrate, on the 16th and 18th December 1854. Proceedings certified, on petition to the Sudder Foujdaree Adawlut.]

Gross Misconduct, and Mutinous Behaviour, as Sepoys of the Bheel Corps.

Prisoners.—No. 1, Ookha wulud Newjee, Bheel, aged 38.

2, Apnia wulud Poonia, Bheel, aged 36.

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KHANDEISH.

Gross Misconduct, and Mutinous Behaviour, as Sepoys of the Bheel Corps.

Prisoners.—No. 3, Ranoo wulud Bhowjee, Bheel, aged 36.
4, Fukeera wulud Maharoo, Bheel, aged 36.
5, Nagoo wulud Luximon, Bheel, aged 28.
6, Dugdoo wulud Andoo, Bheel, aged 30.

Charge.—Gross misconduct, and mutinous behaviour, as Sepoys of the Bheel Corps, and members of the general Police body; in having, at or near the Cantonment of Malligaum, Talooka Malligaum, Zillah Khandeish, on or about the 17th November 1854,(Kartik Wud 12th, Shuké 1776,) when warned for duty as an escort to accompany Major Morris en route to Bombay, one and all refused to respond to the call, and stubbornly objected to go, without assigning any reason for acting in so extraordinary a manner, in disobedience of their Officer's orders. (Regulation XII. of 1827, Section VIII. Clause 1st.)

The charge having been read and explained to the prisoners, they one and all plead not guilty.

Finding and Sentence by the Assistant Magistrate.—The recorded evidence establishes the charge against each and all of the prisoners.

A more glaring case of wanton insubordination as Sepoys, and ingratitude as men, towards their old Officer, Major Morris, on the eve of his departure from Khandeish, cannot be conceived. It is probably the only case of the sort that has ever occurred in the Bheel Corps, and, as such, a display of bad feeling should be checked at once. The prisoners are dismissed from the Bheel Corps from this date, and, under the full powers vested in me of Magistrate, I sentence them to periods of imprisonment as follows, by virtue of Regulation XII. of 1827, Section VIII. Clause 1st :—

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Gross Misconduct, and Mutinous Behaviour as Sepoys of the Bheel Corps.

Prisoner No. 1 (Ooka wulud Newjee) to undergo a period of nine (9) months' ordinary imprisonment, without labour, in Dhoolia Jail.

Prisoner No. 2 (Apnia wulud Poonia) to undergo a period of nine (9) months' ordinary imprisonment, without labour, in Dhoolia Jail.

Prisoner No. 3 (Ranoo wulud Bawajee) to suffer the same description of imprisonment, in the same Jail, for eight (8) months.

Prisoner No. 4 (Fukeera wulud Maharoo) to suffer the same sort of imprisonment, in the same jail, for ten (10) months.

Prisoner No. 5 (Nagoo wulud Luximon) to suffer the same sort of imprisonment, in the same Jail, for nine (9) months.

Prisoner No. 6 (Dugdoo wulud Andoo) to suffer the same sort of imprisonment, in the same place, for ten (10) months.

Resolution of the Sudder Foujdaree Adawlut.—In consideration of their having been dismissed the Government Service, the Court mitigate the sentence upon the prisoners Fukeera and Dugdoo to six months' imprisonment, and that of the others to four months' imprisonment.

The Assistant Magistrate should not have recorded that he had discharged the prisoners from the Regiment until after he had passed sentence upon them, and his attention is to be called to Circular Order No. 79.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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AHMEDABAD.

[Case No. 75 of the Calendar of the Ahmedabad Sessions Court for 1854. Committed by Mr. W. A. RITCHIE, Acting First Assistant Magistrate, on the 26th August 1584. Tried by Mr. C.

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AHMEDABAD.

Robbery by Night, without Force.

WALTER, Acting Assistant Session Judge, on the 2nd and 5th September 1854. Proceedings certified, on petition, to the Sudder Foujdaree Adawlut.]

Prisoners.—No. 1, Kuloo Parkhan, Kolee, aged 25.
2, Hemta Mana, Kolee, aged 28.
3, Rutun, wife of Whala Heera, Kolee, aged 40.
4, Veija Najun, Bhurwar, aged 35.
5, Mela Huma, Bhurwar, aged 35.

Charge.—Robbery by night, without force; in having, on the night of December 16th, 1853, (Margsheersh Wud 1st, Sumvut 1910,) on the banks of the Null, between Doorgee and Meynee villages, Purgunna Dholka, Zillah Ahmedabad, stolen thirteen buffaloes, value Rs. 240, which were grazing in the aforesaid locality, ten of which were the property of complainant Raghoo Jeyshung, one of Jessa Govind, one of Godur Jugga, and one of Nuthoo Jeyshung.

Also with having, on December 22nd, 1853, (Margsheersh Wud 7th, Sumvut 1910,) within the bounds of Keshole, Purgunna Luckhtur, in Kattiwar, been found in possession of the aforesaid thirteen buffaloes, by one Kurwa Raja, of that village, the same having been received by them, knowing, or having evident ground for believing them to have been stolen, without informing some Public Officer.

Finding and Sentence by the Acting Assistant Session Judge.—The prisoners are charged on two counts, one of robbery, the other of receiving stolen property. The buffaloes, the property of three Bhurwars, inhabitants of the neighbourhood of the Null, were stolen during the night of the 16th December 1853, and appear to have been discovered on the following day, and not on the 22nd December 1853, as stated in the second count of the charge. Witness No. 7, a Bhurwar of Keshole, deposes to having seen prisoners Nos. 1, 2, and 3, with

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the stolen property, at noon, and his suspicions having been excited, he took them and the buffaloes to the Mookhee of his village, who detained them, and they were recognized by the owners the same day. Prisoners Nos. 2 and 3 deny that they were so found with the buffaloes, and prisoner No. 1 says that they were not with him. It seems, further, extraordinary that a woman with a child, as prisoner No. 3 is, should have been taken along with people who were cattle-lifting, as, in case of any interruption, she would have no chance of escape, and would have endangered the safety of the whole party; and again, it is suspicious that the Bhurwar (witness No. 7) should have attempted single-handed, and actually succeeded, in bringing three prisoners with thirteen buffaloes into his village. At all events the evidence of witness No. 7 to the fact is not sufficient to warrant their conviction on either count; they are accordingly acquitted and discharged.

As regards prisoners Nos. 4 and 5, there is not a tittle of evidence; they are accordingly acquitted and discharged.

Prisoner No. 1 admits that he was found at Keshole with the buffaloes in his possession, but names prisoners Nos. 4 and 5 as those who gave them to him, to drive for them to Veerumgaum. To establish this, he advances no evidence, and as prisoners Nos. 4 and 5 deny the fact, their words are as good as his; so this shifting of the charge on their shoulders cannot be considered as a satisfactory explanation of how the property came into his possession. Besides, prisoners Nos. 4 and 5 are inhabitants of the same district as complainants, are of the same caste, and all on good terms with them; nor can they be said to be bad characters.

Prisoner No. 1 admits that he was unacquainted with prisoners Nos. 4 and 5 before; that he had only just arrived at their village when he was accosted by them.

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It is therefore utterly incredible that they should have been imprudent enough to have made over stolen property to an utter stranger, who might have betrayed them at once, and in whom they could have placed no manner of confidence or reliance. Besides, the fact of the buffaloes having been found in the possession of prisoner No. 1, so soon after the robbery was committed, renders it improbable in the extreme that any intermediate transfer of them had taken place. There can, therefore, be no reasonable doubt that the prisoner, either by himself, or in company with others, committed the robbery in question ; hence the Court finds the prisoner guilty of robbery without force, by night ; in that, on the night of the 16th December 1853, he stole from the banks of the Null, between Doorgee and Meynee, of the Dholka Purgunna, thirteen buffaloes, of the value of Rs. 240, or thereabouts, which were grazing in the aforesaid locality, ten of which were the property of complainant Raghoo Jeyshung, one of Jessa Govind, one of Godur Jugga, and one of Nuthoo Jeyshung.

And the Court, having thus found the prisoner guilty, and after maturely considering the nature of the offence committed, and the punishment provided therefor in Regulation XIV. of 1827, Section XXXVII. Clause 4th, proceeds to pass the following sentence :—

That you, Kuloo Parkhan, be imprisoned and kept to hard labour for the space of two (2) years.

Review by the Session Judge.—Having perused the proceedings of the Acting Assistant Session Judge in this case, the Court is of opinion there is no sufficient ground for interference. The cattle in question, having been found in the prisoner's possession the day after the robbery, at a distance from the village in which their owners lived, and from the place whence they had been stolen, it rests with him to show he honestly came by them, and this he has failed to do.

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Prisoner's petition is rejected, and endorsed, accordingly, to be returned to him.

The Court would draw the attention of the Acting Assistant Session Judge to the Circular Order of the Sudder Foujdaree Adawlut dated the 22nd November 1848, No. 385 of the printed collection, forbidding the entry of the papers and proceedings received from the Magisterial Authorities as part of the record of the trial.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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TANNA.

[Case No 10 of the Criminal Return of the Magistrate of Tanna for January 1855. Tried by Mr. R. H. PINHEY, Officiating Second Assistant Magistrate, on the 22nd and 23rd January 1855. Reviewed by Mr. G. B. SETON KARR, Magistrate, on the 5th February 1855. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Removing Salt in Excess of a Pass-note.

Prisoner.—Huson wulud Alee, Shaik, aged 34.

Charge.—Removing salt (under the provisions of Section X. Act XXVII. of A. D. 1837); in that he did, on Wednesday, the 3rd day of May A. D. 1854, (Wuishakh Shood 6th, Shuké 1776,) at the village of Jookundrey, in the Bassein District of the Tanna Collectorate, take a pass-note for 320 maunds of salt to the Shenkaee Saltworks, in the said village of Jookundrey, and did take from the said Shenkaee Saltworks 391 maunds of salt, being 71 maunds in excess of the pass-note which he had obtained, and valued at Rs. 59-14-6.

The charge having been explained to prisoner, he pleads not guilty.

Finding and Sentence by the Officiating Second Assistant Magistrate.—The prisoner requests that the proceedings may be adjourned, as the four other witnesses specified by him are not present.

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Removing Salt in Excess of a Pass-note.

He is informed, that there does not appear any ground sufficient for postponing the case *sine die*.

In the first place, one of the witnesses specified by him cannot (by his own showing) be found, nor can he tell when it is probable that he will be found; and in the second place, if the four witnesses were present, and stated exactly what prisoner represents, they would only prove that prisoner did not remove the extra salt at the time that the agent obtained the 320 maunds specified in the pass-note.

This is a point quite immaterial in prisoner's case. It was a point of some importance when the Saltworks Karkoon was on his trial. It is a matter of indifference as regards the present prisoner. It is in the present case, in the Assistant Magistrate's opinion, sufficient to prove that the salt for which the pass-note was obtained was really to become the property of the salt merchants, of whose firm the prisoner was a partner; that the prisoner was the acting member of the firm in the present transaction; and that the salt found in his boat was in reality 71 maunds in excess of the amount specified in the pass-note. Thus much of the *onus probandi* lies with the case for the prosecution; and for the prisoner to prove, that during a short period of the whole time that elapsed between the obtaining of his pass-note and the seizure of his boat, is but to prove a small portion of that which is necessary for his exculpation. The fact thus considered, prisoner's defence amounts to no defence at all.

Of the agent's guilt in this transaction, sufficient proof having existed, he has been convicted, and is now in prison.

That the agent should commit fraud, which would profit his principal alone, without that principal's cognizance, is a supposition too paradoxical to deserve even a casual consideration. That prisoner was the principal in this particular transaction is proved by the evidence in the above case, and is undisputed by prisoner himself.

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That the salt was by 71 maunds in excess of the amount specified in the pass-note, is proved by the evidence above, and is undisputed by prisoner.

It is therefore sufficiently shown, that the prisoner did smuggle salt from the Saltworks of Jookundrey, as detailed in the charge, and he is convicted accordingly.

Sentence.—The Assistant Magistrate can see no extenuating circumstance, connected with prisoner's conduct, in a most grossly fraudulent transaction, and does therefore inflict on him the severest penalty prescribed by law, *i. e.* imprisonment, with hard labour, for the term of three (3) months.

Prisoner, in a former petition, objected to the legality of the present indictment, on the plea, that having been examined as a witness in the Salt Karkoon's case, he could not now be as a prisoner. There appears no ground for this objection. Clause 1st, Section XXXVII. Regulation XIII. of 1827 prohibits the taking of a prisoner's statement on solemn affirmation, when a prisoner; but it could never have been intended, neither is it the law or the practice in English Courts of law, to preclude the prosecution of any witness in a criminal case, if, in the course of a trial, it be elicited that criminality attaches itself to the witness. Did such a law exist, it would only be necessary for such a one to manage to be examined (as in this case) for the prisoner's defence, and he might then defy the law—a provision which would not be expedient, and does not exist.

Reviewed by the Magistrate, on Appeal.—The prisoner appeals from the decision that has been passed in this case, on three grounds:—1*st*, that he was a witness in the former case, when other parties were on their trial on a charge arising out of this same transaction; 2*nd*, that he has no concern in their matter; and 3*rd*, that even supposing him to be the principal, that fact of itself does not implicate him.

As his evidence, when he was witness in the former

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case, has not been used against him, the first argument is worth nothing. The third reason stated is of course a sufficient reply to any charge merely resting on the fact of his being the principal, on whose account the salt was bought; but that is not the charge.

The prisoner was indicted, not for having been the person for whose advantage the fraud was committed, but for having committed it himself. He denies the truth of the accusation, and asserts that he was not concerned in the matter; but it is in evidence (see particularly the deposition of Babajee Haibutico, witness No. 5) that he was present, and personally superintended the measuring of the salt, and that he is one of the firm which purchased it, and by whom it was being removed. In short, he was the principal in the entire transaction; and as the salt was removed contrary to the provisions of Act XXVII. of 1837, that is to say 71 maunds were removed without payment of any duty, the prisoner has been rightly convicted under Section X.; and considering his position, and the numerous frauds which there is reason to believe are committed in cases such as the present, I think the punishment awarded is quite proper. The appeal is rejected.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

AHMEDNUGGUR.

[Case No. 15 of the Calendar of the Ahmednuggur Sessions Court for 1855. Committed by Mr. J. L. WARDEN, Third Assistant Magistrate, on the 24th January 1855. Tried by Mr. J. W. WOODCOCK, Session Judge, on the 29th January 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoner.—Deojee wulud Nowsa, Mhar, aged 30.

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AHMEDNUGGUR.

Murder.

Charge.—Murder (under the provisions of Section XXVI. Clause 1st, Regulation XIV. A. D. 1827); in that, on the night of Friday the 5th January 1855, (corresponding with Mitee Poush Wud 2nd, Shuké 1776,) in the jungle of the village of Panehgaon, Péta Sonaee, Talooka Neywasa, Zillah Ahmednuggur, he did, without justifiable or extenuating cause, deprive of life his wife Keree, aged about twenty-five years, and his child, aged nine months, by cutting their throats with a knife.

The above charge is read over and explained to the prisoner, and he being asked whether he pleads guilty or not guilty, pleads guilty.

Finding and Sentence by the Session Judge.—Upon the confession of the prisoner, and the evidence recorded, the Court finds the prisoner guilty of murder; in that, on the night of Friday the 5th January 1855, (corresponding with Mitee Poush Wud 2nd, Shuké 1776,) at the village of Panehgaon, Péta Sonaee, Talooka Neywasa, Zillah Ahmednuggur, he did, without justifiable or extenuating cause, deprive of life his wife Keree, aged about twenty-five years, and his child, aged nine months, by cutting their throats with a knife.

There does not appear to be the slightest mitigating circumstances in this case, which would lead the Court to stop short of a capital punishment; and the Court is of opinion, that if the prisoner were taken to the spot, in conformity with his expressed wish, where the murder was committed, and there executed, that it would tend more to deter others from similar crimes than a hundred executions at the usual place.

Read and recorded a former warrant of prisoner, issued by the Acting Magistrate, sentencing the prisoner to one year's imprisonment, with hard labour, for his having cut off the nose of his wife, deceased Keree.

The Court, having found the prisoner guilty of murder, passes the following sentence, under the provisions of

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Clause 4th, Section XXVI. Regulation XIV. A. D. 1827 :—

That you, Deojee wulud Nowsa, Mhar, be taken to the spot where the murder was committed, and there hanged by the neck till you be dead; which sentence will not be carried out till it has received the final confirmation of the Court of Sudder Foujdaree Adawlut, to which it will be referred.

Letter from the Session Judge to the Registrar, Sudder Foujdaree Adawlut.—In forwarding for confirmation the accompanying Case No. 15 of 1855, I have the honour to request you will do me the favour to bring the following circumstances to the notice of the Judges, with the view to a mitigation of the sentence :—

The only defence set up by the prisoner was, that he is willing to undergo at the spot any punishment which the Court may award for the crime he has committed, thereby showing penitence and regret, and after sentence was passed upon him, * * * * * * * * * * * * * * *

His turban was found to contain a tin box, with a small quantity of opium in it, and which, from its appearance, must at one time have been full of opium. I am led to the belief that the prisoner is a confirmed opium-eater, and at the time he committed the foul deed he must have been labouring under the stupifying effects of that drug; for how is it possible otherwise to account for his embruing himself at the same time in the blood of his wife, and his poor innocent child. I would therefore beg to recommend the prisoner to mercy, and that the sentence of death be mitigated to transportation for life.

Resolution of the Sudder Foujdaree Adawlut.—The Court cannot comply with the recommendation of the Session Judge, that the prisoner should be sentenced to a secondary punishment. Had it been shown in evidence, instead of being the Session Judge's own opinion, that the prisoner was a confirmed opium-eater, and that

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he committed the murders while under the influence of opium, the Court are not of opinion that any palliation of his guilt could have been admitted. The prisoner was once before sentenced to a year's imprisonment for a savage assault upon his wife, whom he has now murdered. The Court confirm the conviction, and sentence of death, which is to be carried out at the usual place of execution, and not at the spot which the Session Judge has indicated, for no sufficient reason, in the opinion of the Sudder Foujdaree Adawlut.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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AHMEDNUGGUR.

[Case No. 9 of the Criminal Return of the Magistrate of Ahmednuggur for September 1854. Tried by Mr. A. R. GRANT, First Assistant Magistrate, on the 14th September 1854. Proceedings certified, on the petition of Mulharee wulud Balajee, and three others.]

Neglect in regard to Detecting and Apprehending some Robbers.

Prisoners.—No. 1, Sutwa wulud Sunta, Koonbee, aged 60.
2, Awa wulud Cheema, Mhang, aged 30.
3, Soobhana wulud Sidoo, Ramoosee, aged 27.
4, Toolsa wulud Sidoo, Malee, aged 28.
5, Bapoo wulud Hybutee, Malee, aged 30.
6, Bhyroo wulud Govinda, Malee, aged 35.
7, Gunputee wulud Suntoo, Koonbee, aged 40.
8, Deojee wulud Krishnajee, Koonbee, aged 35.
9, Sukaram wulud Buchajee, Malee, aged 35.

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Neglect in regard to Detecting and Apprehending some Robbers.

Prisoners.—No. 10, Witoo wulud Rumbajee, Malee, aged 26.
11, Witoo wulud Dhonjee, Malee, aged 35.
12, Mulharee wulud Balajee, Koonbee, aged 60.
13, Patta wulud Sutwajee, Koonbee, aged 29.

Charge.—As representatives of the village of Waghoondy, in the Kurdeh Talooka, under Regulation XII. Section XXXVII. Clause 1st, A. D. 1827, with neglect, on the part of themselves and the other inhabitants of the said village, in regard to the apprehension and detection of some robbers, six or seven in number, who, on the night of the 29th July 1854, (10th of Ashad Wud, Shuké 1776,) entered, and robbed the house of one Rajaram wulud Raeechund of property, of the value of Rs. 81-15-0.

All the prisoners plead not guilty.

Finding and Sentence by the First Assistant Magistrate.—Most of the prisoners endeavour to make out that they advanced most valiantly against the robbers, but that the latter fled so precipitately that it was impossible to catch them.

Their statements, however, are not very consistent; and it will be seen that prisoners Nos. 7, 8, and 13, especially the last, give a very different account of the affair. From their statements, it appears that a large body of villagers assembled, before any one ventured to approach the shop attacked by the robbers; but it is by no means necessary to prove that this was the case, for the parties that happened to be at Rumdram's and Gungoo Malee's on the night of the robbery far outnumbered the thieves, and it is clear, from the depositions of several of the prisoners, that nothing determined was done by them, otherwise the thieves could not all have escaped scot free. It will be observed that many of the pri-

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AHMEDNUGGUR.

Neglect in regard to Detecting and Apprehending some Robbers.

soners state that they followed the robbers to the wall, but prisoner No. 13 says the robbers escaped by a gap in the wall. The Assistant Magistrate considers that the neglect charged against the village is proved, and accordingly sentences the village to pay a fine of eighty-one rupees and fifteen annas (Rs. 81-15-0), under Regulation XII. Section XXXVII. Clause 1st, A. D. 1827. This fine to be levied from the inhabitants at large, as provided for by Clause 2nd of the same Section, and to be paid to the complainant if realized.

Resolution of the Sudder Foujdaree Adawlut.—The amount of loss is not satisfactorily proved: the deposition of the complainant cannot be accepted in its integrity on this point; nor do his "caution" or "activity" on the occasion justify the full award of compensation.

The Court reduce the fine to Rs. 30, to be paid to the complainant.

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BELGAUM.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 122 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Rao Bahadoor RAGOBA JUNARDHUN, Deputy Magistrate of Belgaum, on the 25th September 1854. Tried by Mr. A. W. JONES, Session Judge, on the 10th, 11th, 12th, 17th, and 19th October 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Robbery without Force, by Day; and Receipt of Stolen Property, knowing, or having evident ground for suspecting it to be Stolen.

Prisoners.—No. 1, Bababhut bin Roodrubhut, Brahmin, aged 26.

2, Tumajee Apajee, Brahmin, aged 28.

Charge.—Robbery without force, by day (Regulation XIV. A. D. 1827, Section XXXVII. Clause 4th); in having, on Wednesday the 16th August 1854, (corresponding with Shrawun Wud 8th, Shuké 1776,) in Belgaum, in the Pádshapoor Talooka, in the Belgaum Division of the Dharwar Zillah, stolen two gold 'surees,' valued at about Rs. 180, the property of Nursoo Balajee.

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And prisoner No. 1 (Bababhut) is also charged, and prisoner No. 2 (Tumajee) is charged, under Regulation XIV. A. D. 1827, Section XLI. Clause 1st, with the receipt of stolen property, knowing, or having evident ground for suspecting it to be stolen; in having had in their possession the above-mentioned property.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—In this case prisoner No. 1 (Bababhut) is charged with robbery without force, by day, and both prisoners are charged with the receipt of stolen property, knowing it to be stolen.

It appears, that on Wednesday the 16th August last, two young Brahmin girls of Belgaum lost each a gold suree, or twisted ornament for the neck, which they were wearing on account of the 'gowree eed.' They did not, however, miss them for two days; but then, after looking all over the house for them in vain, their brother Nursing went and reported the loss to the Joint Police Officer.

Prisoner No. 1 (Bababhut) seems to have been suspected at once, since it appears he was arrested on the very day the loss was complained of. At first he appears to have denied all knowledge of the matter; but very soon after he acknowledged having taken up both of the surees, one from the street in front of Nursing's house, the other from the 'sopa' of the house, and that he had then melted, and had used the gold obtained thereby in various ways.

The statement acknowledging all this he has admitted as correct before the Court.

His Vakeel, however, contends that the prisoner ought to have been charged with petty theft, as explained in Section XXXIX.; and that, as he only admits he found these articles, there is nothing to show he committed robbery, and that he cannot therefore be convicted under Section XXXVII. Clause 4th. The Session Judge,

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however, is of opinion, that a man who takes a valuable ornament from the sopa or verandah of another man's house must be considered guilty of robbery, and prisoner No. 1 (Bababhut) is therefore convicted of robbery.

Against prisoner No. 2 (Tumajee) the case is as follows:—When agreeing to deliver up the gold bar he had obtained by melting the stolen ornament, prisoner No. 1 (Bababhut) said he had left it with prisoner No. 2 (Tumajee); and the prisoner No. 2 (Tumajee), who was in the house of prisoner No. 1 (Bababhut) when the Police arrived to search it, admitted he had this gold bar, and offered to, and did, surrender it at once, as shown in the evidence of witnesses Nos. 15 and 16. Prisoner No. 1 (Bababhut), however, stated at first that he had only melted one of the ornaments, and that he had given the other, with the gold bar, to prisoner No. 2 (Tumajee). This, however, on being questioned about it by the Police, prisoner No. 2 (Tumajee) denied, and so his house was searched, and three gold surees, of different sizes, were found; but all these he declared were his own.

The complainant, however, identifies one of them as having belonged to his sisters, and a young person who lives as a priest in his house does so also; and Nursing Row (complainant), who gave the ornament to his sister, and saw it made, also identifies it as that he gave.

The two witnesses whom prisoner No. 2 (Tumajee) called to prove the making of those ornaments could not speak to them, and were not therefore examined before the Court.

On the other hand, prisoner No. 1 (Bababhut), although he admitted at first that he had given both the gold bar and the other suree to prisoner No. 2 (Tumajee), and that the middle-sized suree found in his house was the very one thus given, said afterwards that he had melted both, and had given the bar alone to prisoner No. 2 (Tumajee), and had otherwise disposed of the rest of the gold obtained from the melting.

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The statement of prisoner No. 1 (Bababhut) might have been put aside, as having no bearing on the case of prisoner No. 2 (Tumajee); and the evidence of the witness No. 5, who stated, as early as 22nd August, that, in accordance with the second statement of prisoner No. 1 (Bababhut), he did melt both the surees, might also have been put aside as that of an accomplice only; for he is the person who melted gold, and was charged before the Deputy Magistrate with receipt of stolen property, but was dismissed as not liable to the charge. But there are other witnesses in the case (Nos. 10, 7, and 8), who corroborate these persons' statements so far as to prove that two of the three rings which they (prisoner No. 1, Bababhut, and witness No. 5) say were made out of the two surees were really handed over to witness No. 10, to be made into an ornament for witness No. 7, a female friend of prisoner No. 1 (Bababhut), in whose possession, also, the third ring was actually found.

It is true the other rings have not been recovered, and the witnesses Nos. 7 and 8 declare prisoner No. 2 (Tumajee) took them away, which he denies, however; but without putting this evidence aside altogether, which the Session Judge cannot see sufficient ground for doing, the statements of prisoner No. 1 (Bababhut), and the man who melted the gold for him (witness No. 5), cannot be put aside either as untrue; and in that case the gold melted, together with the suree claimed by complainant, amounts to more than even he estimates the weight of his lost ornaments at.

Moreover, the identification of this ornament by the complainant and his witnesses was not very precise, and the maker of it appears to be dead; so that, on the whole, the Session Judge thinks there is sufficient doubt on the point to allow prisoner No. 2 (Tumajee) the benefit of it. But with regard to the surrender of the bar, although there is no doubt it was done at once at the demand of the Police, yet it appears from his own statement, which

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is admitted before the Court, that he suspected something was wrong about it, because prisoner No. 1 (Bababhut) desired him not to mention it to his father, and that although he heard prisoner No. 1 (Bababhut) was arrested, and that his house had been searched on account of the loss of Nursing Row's ornaments, he nevertheless never brought to the notice of the Police this most suspicious circumstance, the placing of this gold bar with him. The obvious inference is, that he never would have given the bar up at all of his own accord, and that it was only given up at last because prisoner No. 1 (Bababhut) confessed he had given it him; so that, instead of having any right to claim the benefit of his honesty, in instantly giving it up when asked for, he must be considered to have kept it, notwithstanding that he had evident ground for suspecting it to be stolen property; and he is therefore convicted of the receipt of stolen property, knowing, or having evident ground for suspecting it to be stolen.

Prisoner No. 1 (Bababhut) is accordingly convicted of robbery without force, by day; in having, on Wednesday the 16th August 1854, (corresponding with Shrawun Wud 8th, Shuké 1776,) in Belgaum, in the Padshapoor Talooka, in the Belgaum Division of the Dharwar Zillah, stolen two gold surees, valued at about Rs. 180, the property of Nursoo Balajee.

And prisoner No. 2 (Tumajee) is convicted of the receipt of stolen property; in having had in his possession a bar of gold, part of the gold obtained by melting the above-mentioned two gold surees.

And after considering the nature of the crime committed, and the punishment assigned in Regulation XIV. Sections XXXVII., and XLI. Clause 1st, the following sentence is passed:—

That you, Bababhût, be imprisoned and kept to hard labour for four (4) months, and pay a fine of one hundred rupees and eight annas (Rs. 100-8-0), or be

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further imprisoned and kept to hard labour for eight (8) months. The fine, if paid, to be made over to complainant, under Act XVI. of 1850, Section I.

And that you, Tumajee Apajee, be imprisoned and kept to hard labour for four (4) months.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoners is rejected.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 110 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. J. F. ARMSTRONG, Acting First Assistant Magistrate, on the 2nd December 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 26th and 27th December 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Receiving Property, knowing it to be Stolen; and Fraudulent Melting of Ornaments.

Prisoners.—No. 1, Busapa wulud Chinapa, Koshtee, aged 25.
2, Jukapa wulud Purapa, Koshtee, aged 40.
3, Eerguntee wulud Eerbhudrapa, Lingayet, aged 20.
4, Kalupa wulud Takupa, Punchal, aged 30.

Charge.—Against prisoners 1, 2, and 3, receiving property, knowing it to be stolen (Reg. XIV. of 1827, Sect. XLI. Clause 1st); in having, in the month of June 1854, (corresponding with Jésht, Shuké 1776,) in the Moodebehal Talooka of the Sholapore Zillah, received, knowing it to have been stolen from Neelawa kom Totapa, of Moodebehal, property as follows:—Prisoner No. 1, cash Rs. 10, gold of the value of Rs. 24-3-6, and silver of the value of Rs. 6-8-0; prisoner No. 2, cash Rs. 11, and gold of the value of Rs. 32; and prisoner No. 3, cash Rs. 6, silver of the value of Rs. 2-2-0, and gold of the value of Rs. 24; of the total value of Rs. 115-13-6.

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Receiving Property, knowing it to be Stolen; and Fraudulent Melting of Ornaments.

And prisoner No. 4 with fraudulent melting of ornaments (Regulation XIV. of 1827, Section XXI.); in having, in the month of June 1854, (corresponding with Jésht, Shuké 1776,) at the village of Beedurkoondee, in the Moodebehal Talooka of the Sholapore Zillah, in the house of prisoner No. 2 (Jukapa wulud Purapa), melted down five gold and three silver ornaments, knowing them to have been stolen from Neelawa kom Totapa.

The prisoners severally plead not guilty.

Finding and Sentence by the Session Judge.—The prisoners are charged, Nos. 1, 2, and 3 (Busapa wulud Chinapa, Jukapa wulud Purapa, and Eerguntee wulud Eerbhudrapa) with receiving property, knowing it to be stolen; and No. 4 (Kalupa wulud Takupa) with fraudulent melting of ornaments; and severally plead not guilty.

They made full confessions before the Police Amuldar, which they have subsequently repudiated; but they are proved by the evidence of witnesses for the prosecution Anajee, Luximon, Ragvende, Busapa, and Kashinath (Nos. 12, 13, 14, 15, and 16) to have been freely and voluntarily made, without force or compulsion, promises or threats; and they are likewise fully corroborated by the whole of the evidence recorded, which shows that a large proportion of the property of which the complainant Neelawa was robbed was either found in their possession, or in that of others to whom they had disposed of it; and by the appearance of some of the property, which shows it to have been melted down. They do not also attempt to prove the defence they now set up, which is that they became otherwise possessed of it, and they are therefore severally convicted, Nos. 1, 2, and 3, (Busapa wulud Chinapa, Jukapa wulud Purapa, and Eerguntee wulud Eerbhudrapa) of receiving property, knowing it to have been stolen; in having, in the month of June 1854, (corresponding with Jésht, Shuké 1776,) in the Moodebehal Talooka of the Sholapore Zillah, received, knowing it to have been stolen from Neelawa

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Receiving Property, knowing it to be Stolen; and Fraudulent Melting of Ornaments.

kom Totapa, of Moodebehal, property as follows :—Prisoner No. 1, cash Rs. 10, gold of the value of Rs. 24-3-6, and silver of the value of Rs. 6-8-0; prisoner No. 2, cash Rs. 11, and gold of the value of Rs. 32; and prisoner No. 3, cash Rs. 6, silver of the value of Rs. 2-2-0, and gold of the value of Rs. 24; of the total value of Rs. 115-13-6.

And prisoner No. 4 (Kalupa wulud Takupa) of the fraudulent melting of ornaments; in having, in the month of June 1854, (corresponding with Jésht, Shuké 1776,) at the village of Beedurkoondee, in the Moodebehal Talooka of the Sholapore Zillah, in the house of prisoner No. 2 (Jukapa wulud Purapa), melted down five gold and three silver ornaments, knowing them to have been stolen from Neelawa kom Totapa.

And after maturely considering the nature of the offences committed, and the punishment provided for the same by Clause 1st Section XLI. and Section XXI. Regulation XIV. of 1827, and also the fact (admitted by him) of prisoner No. 2 (Jukapa wulud Purapa) having before undergone imprisonment for nine months, the following sentence is passed :—

That you, Busapa wulud Chinapa, Jukapa wulud Purapa, Eerguntee wulud Eerbhudrapa, and Kalupa wulud Tukupa, be each of you imprisoned and kept to hard labour for two (2) years, and that you one (1) month hereafter receive twenty-five (25) stripes with a cat-o'-nine-tails, on your bare back. You, Jukapa, will also, at the expiration of your imprisonment, be made over to the Magistrate for precautionary measures, under the provisions of Section XLI. Regulation XIII. of 1827.

* * * * * * *

The Session Judge remarks, that as the possession of the stolen property sufficiently corroborates their confessions, prisoners Nos. 1, 2, and 3 (Busapa wulud Chinapa, Jukapa wulud Purapa, and Eerguntee wulud

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Eerbhudrapa) should, in his opinion, have been committed to take their trial for robbery, and not for receiving stolen property, knowing it to be such, or upon both counts.

In criminal proceedings, also, the term "complainant" is more suitable than "plaintiff," a term used only by the Courts in civil cases.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Session Judge is to be told that prisoners Nos. 1, 2, and 3 should have been *tried* for the robbery, the offence properly charged by the Assistant Magistrate at the commencement of his proceedings, who altered it into "receiving," without recording any reasons for so doing, an error of which the Session Judge was conscious, and which it was competent to him to have amended, by returning the prisoners to be committed for the robbery.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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[Case No. 8 of the Calendar of the Sholapore Sessions Court for 1855. Committed by Mr. A. BOSANQUET, Acting Second Assistant Magistrate, on the 1st February 1855. Tried by Mr. C. M. HARRISON, Session Judge, on the 6th and 7th February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Robbery by Night, with Force; and Receiving Property, knowing it to be Stolen.

Prisoner.—Doolba wulud Mookoonda, Kolee, aged 30.

Charge.—Robbery by night, with force (Regulation XIV. of 1827, Section XXXVII. Clause 3rd); in having, on the night of Wednesday, the 1st November 1854, (corresponding with Boodwar, Kartik Shood 12th, Shuké 1776,) at Barsee, in the Talooka of that name, and Zillah Sholapore, forcibly opened the Moonsiff's box in the Mamlutdar's Treasury, and stolen therefrom property, consisting of cash, pearls, and gold and silver

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ornaments, of the estimated value of Rs. 855-12-0, or thereabouts.

And receiving property, knowing it to be stolen (Regulation XIV. of 1827, Section XLI. Clause 1st); in having, at the above-mentioned time and place, received, knowing it to be stolen, property, consisting of pearls, gold ornaments, &c. of the value of Rs. 756-14-0, or thereabouts.

Finding and Sentence by the Session Judge.—The prisoner is charged with robbery by night, with force; and with receiving property, knowing it to be stolen; and pleads guilty to both charges.

The circumstances of the case are detailed in the translation of the prisoner's confession, recorded in the body of the Court's English proceedings; and having pleaded guilty to both charges, and confirmed this confession, after hearing the evidence in the case read over to him, he is convicted of robbery by night, with force; in having, on the night of Wednesday, the 1st of November 1854, (corresponding with Boodwar, Kartik Shood 12th, Shuké 1776,) at Barsee, in the Talooka of that name, and Zillah of Sholapore, forcibly opened the Moonsiff's box in the Mamlutdar's Treasury, and stolen therefrom property, consisting of cash, pearls, and gold and silver ornaments, of the estimated value of Rs. 855-12-0, or thereabouts; and of receiving property, knowing it to be stolen; in having, at the above-mentioned time and place, received, knowing it to be stolen, property, consisting of pearls, gold ornaments, &c. of the value of Rs. 756-14-0, or thereabouts.

The prisoner was one of a party of Police Sepoys, employed to guard the Treasury of the Mamlutdar of Barsee.

In this Treasury was deposited a box belonging to the Moonsiff, containing the property which was stolen; and the robbery appears to have been perpetrated in the following manner:—

The padlock of the box was covered with cloth, in

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which it was tied up and sealed. This was not touched, but the pin above it, forming the hinge of the hasp, having been forced out, the box was opened, and the property having been removed, the box was again closed, the pin being replaced as before.

The box, though not so large as many used in the Collector's Treasuries, does not otherwise appear to the Session Judge to be a less secure one, and, in the same way, it is believed most, if not all, these boxes might be opened.

It cannot, then, be said that any want of care in securing the property is apparent, or that greater temptation was placed in the way of the Police in this instance than they are subjected to under similar circumstances elsewhere.

It is believed that several of the Collectors' District Treasuries are likewise guarded by parties of Police, and it has lately been ordered by Government that the same men are to have the custody of transportation convicts proceeding from hence to Tanna.

If the prisoner in this case had had nothing to do with guarding the Treasury, the fact of his being a Police Sepoy would, in the Court's opinion, have greatly aggravated his offence; but when, in addition to this, it is considered that he betrayed the trust reposed in him as a Sentry, and when, further, the responsible duties the Corps to which he belongs are called upon to perform is borne in mind, and the necessity of preventing (as far as a sentence of the Court can), by a severe example, any repetition of such an offence, no punishment less than transportation for life appears to the Session Judge suitable.

And after maturely considering, therefore, the nature of the offences committed, and the punishment provided for the same by Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section XLI. Clause 1st, the following sentence is passed:—

That you, Doolba wulud Mookoonda, be transported

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beyond seas, for the term of your natural life. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

* * * * * *

A copy of the prisoner's confession will be forwarded for the information of the Magistrate and Superintendent of Police; and in the event of the above sentence being confirmed, a copy of the Session Judge's finding will also be forwarded, in order to the conviction and sentence being made known to every Policeman in the Zillah.

Resolution of the Sudder Foujdaree Adawlut.—The Court cannot confirm the sentence of transportation, but the offence of which the prisoner has been convicted must be visited severely. He occupied a position of trust and importance, and full confidence was necessarily reposed in him, which he abused for his own advantage.

Case No. 3 of the Ahmedabad Calendar for 1850 was a highway robbery, with force, committed by some Horse Police, and tried by Mr. C. M. Harrison, then Session Judge of Ahmedabad. He sentenced the prisoners to ten years' hard labour, and the Sudder Foujdaree Adawlut confirmed the sentence.

The case before the Court is devoid of so much atrocity as will admit of their passing a more lenient sentence than even in the Ahmedabad case.

The conviction is confirmed, and the prisoner is sentenced to twenty-five (25) stripes, and five (5) years' imprisonment, with hard labour.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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[Case No. 88 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. J. F. ARMSTRONG, Acting First Assistant Magistrate, on the 23rd September 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 28th September and 10th October 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner.—Shivia wulud Anunda, Hujam, aged 24. Murder.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, on or about the night of Wednesday the 13th September 1854, (corresponding with Boodwar, Bhadrupud Wud 7th, Shuké 1776,) in a field within the limits of Nimbal Boodrook, in the Indee Talooka of the Sholapore Zillah, assaulted with a Native hatchet one Shetia wulud Shivia, Mhar, aged thirty years, whilst robbing the crop, and inflicted a wound on his head, from the effects of which he then and there died.

Finding and Sentence by the Session Judge.—The prisoner is charged with murder, and pleads guilty.

The prisoner confesses that he killed the deceased, whilst robbing his field at night; and it is evident from his own admission, that it was quite unnecessary for him to have done so, and that the deceased might have been secured without his striking him at all.

His offence is aggravated by the instrument he made use of—a Native hatchet; and by the fact of his having struck the deceased twice with it whilst on the ground.

There is nothing in the evidence recorded to justify the prisoner's violent conduct. His own life was not in danger (he had two companions with him, who had knocked the deceased down with their cudgels before he struck him himself); nor does it appear that the deceased was armed, or offered resistance.

But judging the act, intention, and cause, the Court

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is of opinion that the circumstances of the case are sufficiently extenuating to divest the act of so much criminality as would constitute murder.

And the prisoner is therefore convicted, on his own confession, confirmed after the evidence in the case had been taken in his presence, of culpable homicide; in having, on or about the night of Wednesday the 13th September 1854, (corresponding with Boodwar, Bhadrupud Wud 7th, Shuké 1776,) in a field within the limits of Nimbal Boodrook, in the Indee Talooka of the Sholapore Zillah, assaulted with a Native hatchet one Shetia wulud Shivia, Mhar, aged thirty years, whilst robbing the crop, and inflicted a wound on his head, from the effects of which he then and there died.

And after maturely considering the nature of the offence committed, and the punishment provided for the same by Section XXVII. Regulation XIV. of 1827, the following sentence is passed :—

That you, Shivia wulud Anunda, be imprisoned for two (2) years, of which eleven (11) months of each year are to be with hard labour, and one (1) month solitary; and that you pay a fine of five hundred (500) rupees, or be further imprisoned, with hard labour, for two (2) years.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to ascertain and report whether there are any, and if so what, instructions to the Police, of the nature stated by prisoner in his petition, in extenuation of his crime. A similiar plea has once before been entered in justification of such an offence as the one under consideration. (See Reports for May 1854, page 536.)

Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—The exigence of the extract from the Court's proceedings of the 20th December 1854, which accompanied the within Precept, is complied with, by forwarding herewith copy of a memo-

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randum of the Magistrate's orders to the Police on the subject of attacking robbers.*

The petition alluded to in the 2nd paragraph is herewith returned.

Further Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Court are of opinion that the prisoner might properly have been convicted of murder.

* *Memorandum of Orders (Translations) which have been issued to the Police, on the subject of attacking Robbers.*

No. 61, *dated* 30*th May* 1839, *by the Assistant Magistrate in Charge, Mr. Law.*—Whereas robbers attack houses and carry off plunder; and, when the ryots discover them, they hesitate to attack them, by the use of fire-arms and other weapons, because they fear to be injured themselves by the robbers, while they imagine they will be liable to a charge of murder if, in attacking the robbers with their weapons, some of the robbers should be killed: Now there is not the least reason for such hesitation. They must, without a moment's hesitation, attack the robbers, and, destroying them, preserve public property. If, in such an encounter, a robber should be killed, there is no offence committed against the law by the person by whose hand he fell. Let all consider this an authentic order, and by means of it let the country be preserved from gang robbers.

No. 142, *dated* 24*th December* 1839, *by the Assistant Magistrate in Charge, the late Mr. Suart.*—A Circular, No. 61, was issued, relating to the impunity of ryots driving off gang robbers, by the use of fire-arms, and other weapons, even if a robber should be killed in the encounter; but it is uncertain whether sufficient circulation has been given to that order, for it does not appear that since its issue a single case has occurred in which a robber has been killed in such encounters. This order is therefore issued, to the effect that you prepare a public notice, and stick it up in every public place, in order that the order may be made known through the country. No one should be left ignorant of this order.

No. 25, *dated* 25*th April* 1854, *by the Magistrate, Mr. Loughnan.*—It has been reported that the ryots in villages do not attack robbers, and have doubts: it is therefore ordered, that if in the process of apprehending robbers on the spot, or of driving them off, there is clearly no remedy but to resort to such measures, then let the order issued by Mr. Suart, No. 142, be acted upon; but where there exist other means, or in petty offences, it is not proper to resort to such extreme proceedings. Let all be made acquainted with this order.

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SHOLAPORE.

Murder.

The Magistrate is to be told, that he is not empowered by Regulation to issue proclamations, except in the matter specified in Section XIX. Regulation XII. of 1827, when a copy of the injunction must be forwarded to the Sudder Foujdaree Adawlut. The Court therefore request he will withdraw a notification, under shelter of which murder is committed, and attempted to be justified.

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Secretary to Government.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to forward, for the information of the Right Honorable the Governor in Council, a copy of a Resolution passed by the Court on the 7th instant, on certain orders issued to the Police by the Magistrate of Sholapore, on the subject of attacking and beating off robbers. * * * * *

* * * * * * *

Resolution of the Government.—That the Judges be informed, that the Right Honorable the Governor in Council entirely concurs in the propriety of the orders issued by them. The order of the late Mr. Suart must, in the opinion of Government, have been prepared by a Karkoon from some hurried expressions of what he (Mr. Suart) intended the order to convey.*

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SHOLAPORE.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 111 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. W. RAYMER, Deputy Magistrate, on the 11th December 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 28th December 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Receiving Property, knowing it to be Stolen.

Prisoners.—No. 1, Umroot wulud Shamjee, Dhungur, aged 40.

* A copy of this Resolution was ordered by the Court to be furfurnished to the Magistrate, through the Session Judge.

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March 8.

SHOLAPORE.

Receiving Property, knowing it to be Stolen.

Prisoners.—No. 2, Ningawa kom Sheoojee, Dhungur, aged 50.

Charge.—Receiving property, knowing it to be stolen (Regulation XIV. of 1827, Section XLI. Clause 1st); in having, time and place not known, received from some person or persons unknown—prisoner No. 1, a brass 'lota,' and platter, of the value of Rs. 1, belonging to one Dasupa wulud Ramapa, being part of property, to the value of about Rs. 75, of which he was robbed on the night of the 23rd July 1854; and prisoner No. 2, a silver waist-band, of the value of Rs. 11-4-0, also belonging to the said Dasupa, of which he was robbed, with other property, to the value of Rs. 60, in A. D. 1849; both prisoners knowing, or having evident ground for suspecting, the same to be stolen.

Finding and Sentence by the Session Judge.—The prisoners are charged with receiving property, knowing it to be stolen, and both plead not guilty.

The evidence of the complainant Dasupa, and of the witnesses Nagupa, Eerupa, and Baba (Nos. 3, 4, 5, and 6) clearly proves that the silver waist-belt, and brass lota and platter, before the Court, form part of property belonging to the former, and of which he was on two different occasions robbed.

The brass lota and platter were, on the house of prisoner No. 1 (Umroot wulud Shamjee) being searched, found buried under some cowdung therein, and he then asserted that they were his, and asked his wife angrily why she had concealed them there, as is proved by the evidence of the witnesses Mulkapa and Shamjee (Nos. 8 and 9); and from his own statement, recorded for the prosecution No. 10; the former witness also stating, that he was in one Ramapa Telee's house when prisoner No. 1 (Umroot wulud Shamjee) brought them there, and wanted to pledge them for Rs. 1. Subsequently the prisoner No. 1 (Umroot wulud Shamjee) admitted that the lota and plate are not his property, and that he

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SHOLAPORE.

Receiving Property, knowing it to be Stolen.

supposed another woman, Bheema, might have put them where they were found, but this Bheema (witness No. 11) denies; and he now attemps a new line of defence, asserting that the cowdung was not within but without the house, and that some enemy of his must have concealed the articles, without, however, calling any evidence in support of it.

Prisoner No. 2 (Ningawa kom Sheoojee) admits having mortgaged the silver waist-belt to Raichund for Rs. 6, but she asserts it is her own property, and that it has descended to her from her forefathers, and calls two witnesses, Shidapa and Aniapa (recorded for the defence Nos. 13 and 14), to prove this; but all they can depose to is, that they have during the last four years seen her son wearing it (one of them stating that he is unable to identify that before the Court as the same). It is only, then, since the robbery in which this silver waist-belt was stolen, that it is asserted to have been worn by her son, and, as the Court does not doubt the evidence of the complainant and his witnesses, above referred to, both prisoners are, under the above circumstances, convicted of receiving property, knowing it to be stolen; in having, time and place not known, received from some person or persons unknown—prisoner No. 1, a brass lota and platter, of the value of Rs. 1, belonging to one Dasupa wulud Ramapa, being part of property, to the value of about Rs. 75, of which he was robbed on the night of the 23rd July 1854; and prisoner No. 2, a silver waist-band, of the value of Rs. 11-4-0, also belonging to the said Dasupa, and of which he was robbed, with other property, to the value of Rs. 60, in A. D. 1849; both prisoners knowing, or having evident ground for suspecting, the same to be stolen.

And after maturely considering the nature of the offence committed, and the punishment provided for the same by Clause 1st, Section XLI. Regulation XIV. of 1827, the following sentence is passed :—

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SHOLAPORE.

Receiving Property, knowing it to be Stolen.

That you, Umroot wulud Shamjee, and you, Ningawa kom Sheoojee, be each of you imprisoned, and kept to hard labour, for one (1) year.

* * * * * *

Prisoner No. 1 (Umroot wulud Shamjee), being Police Patel of his village, the result of this trial will be reported to the Magistrate, in order that such steps regarding the cancelling of his Sunnud may be taken as are thought proper.

Resolution of the Sudder Foujdaree Adawlut.—The Court find that there ought to have been here two separate trials. The cases have nothing to do with each other, nor do the Court think that the conviction in either can be upheld.

In regard to prisoner No. 1 (Umroot), there is nothing to show either that a robbery had been committed, a complaint made, or that this prisoner was aware that the lota and plate had been stolen.

The alleged robbery of the waist-band occurred so long ago, that the strongest evidence was necessary to prove the charge against prisoner No. 2 (Ningawa), whose defence was entitled to more consideration than it received. The Court regret to think that the judgment of the Sessions Court was a hasty one.

The conviction and sentence are annulled, and both prisoners are to be discharged.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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TANNA.

[Case No. 117 of the Calendar of the Konkun Sessions Court of 1854. Committed by Mr. L. REID, Acting Joint Magistrate of Colaba, on the 30th November 1854. Tried by Mr. R. KEAYS, Session Judge, on the 9th, 10th, and 11th January 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

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TANNA.

Murder.

Prisoners.—No. 1, Changnak wulud Yelnak, Mhar, aged 25.
2, Jankee, wife of Ramnak wulud Dhondnak, Mhar, aged 25.
3, Bhagya bin Krishna, Chambar, aged 22.
4, Saynak wulud Yelnak, Mhar, aged 30.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in that, on the evening (about 7 P. M.) of Saturday, the 2nd September 1854, (corresponding to Shunwar, Bhadrupud Shood 10th, Shuké 1776,) within the boundary of the village of Govélé, Turuf Beerwaree, Talooka Ranghur, in the Sub-Collectorate and Joint Magistracy of Colaba, at a place called Jambulpedee, they deprived Dhondnak wulud Kutnak of life, by cutting and wounding him on the head, face, and chest, with grass-sickles, from the effects of which he then and there died.

The prisoners severally plead not guilty.

Finding and Sentence by the Session Judge.—The prisoners are accused of wilful murder, in the instance set forth in the charge.

From the 'Punchayutnama' or Inquest Report, there does not appear to be a doubt as to the deceased Dhondnak's having met with a violent death, and the point to be determined is, whether the prisoners at the bar committed the murder.

It appears in evidence that the deceased resided with his daughter-in-law (her husband being with his Regiment at Shikarpoor), in the Maharwada of the village of Govélé; that this woman formed an improper intimacy with the prisoner No. 1 (Changnak), which gave rise to remonstrances on the part of Dhondnak, which engendered an ill feeling between these parties and the deceased.

On the morning of the 2nd September, the day on which the ceremony of drowning or immersing the idol

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TANNA.

Murder.

Parwutee in the river took place, the deceased went out to weed his 'naglee' field, called Jumbulpedee, accompanied by the following parties, viz. prisoners No. 1 (Changnak), No. 2 (Jankee), No. 4 (Saynak), and the wife of prisoner Saynak, named Mooktee.

They appear to have worked together until about 2 P. M., when the deceased left the others in his field, went home, and took the idol to the river. From the evidence of witness Janey (No. 7), it is proved that he took with him the 'lota' now before the Court, a 'dhotur' for the idol, and wore himself a dhotur and a pair of 'chupples.'

After he had drowned the idol, the deceased was seen and spoken to by three witnesses, close to, or very near his field, called Jumbulpedee, so that it is impossible, that in performing the ceremony, any accident could have happened to him, as at one time supposed, for he was seen alive and well, as above stated, at about $3\frac{1}{2}$ P. M.

From the evidence of Mooktee, it is shown that Changnak (prisoner No. 1) left the field, first under a plea that he felt unwell, and was not seen again until 8 P. M., when he returned home, bathed, eat his dinner as usual, and went to sleep. This evidence of Mooktee is corroborated by that given by Changnak's father, who remarked upon his late return from work, his other son, Saynak (prisoner No. 4), and his wife Mooktee, having returned at evening time. The explanation given by the prisoner was, that he had been to the cattle-shed, and had been detained by the illness of one of the animals. There is much reason to doubt the correctness of this explanation, from the circumstance that the cattle, as appears from the evidence of his father, were in the special charge of another of his sons, named Rama, who had left the cattle in the shed some time before, which it is not likely he would have done had one of them been sick. I am therefore of opinion, that Changnak (prisoner No. 1) has not satisfactorily accounted for his

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TANNA.

Murder.

absence between the time he left the field under the plea of illness, till the time of his return.

Dhondnak not having returned home in the evening, his son Yesnak became alarmed, and, on inquiry, having learnt that he was last seen in the Jumbulpedee field, suspected foul play, and informed the Foujdar the same night. Early the next morning search was commenced, and a dhotur found in the river. The Police came to inquire into the circumstances of Dhondnak's disappearance, and the prisoners were taken into custody on suspicion.

On the third day, the body of a man was discovered at a village called Wurracha Kond Serae, about 2 miles down the river. The Joint Police Officer took the prisoners with him to this village. The body was recognised by Yesnak as that of his father, and on an Inquest being held, it was, as shown above, pronounced that the said Dhondnak had been murdered.

At this time the prisoner Changnak (No. 1) gave a confession, that he, assisted by prisoner No. 3 (Bhagya), had committed the murder. His confession was taken down in writing at the Péta, and in this document the frightful details of the murder will be found. It is proved by witnesses Nos. 19 and 20 to have been given voluntarily. It was subsequently repudiated by prisoner, on the used-up plea that it had been extorted by the Police; but of this he has no evidence whatever, and there are, I regret to say, corroborative circumstances, which convince me that it was true.

In the first place, it is in accordance with facts: it accounts reasonably for his not returning home till late at night, and is reconcileable with the evidence in every way.

He stated that he was assisted in the murder by prisoner No. 3 (Bhagya), who took the deceased's lota, while he himself took the sickle. Now the lota was found concealed in another 'mutka,' in the house of prisoner No. 3 (Bhagya), and the sickle concealed in a corn-

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Murder.

bin in prisoner No. 1 (Changnak's) own stable; and both these articles are clearly proved to have been in Dhondnak's possession when he was last seen. Bhagya (prisoner No. 3) denied all participation in the crime, but said he had seen prisoners No. 1 (Changnak), No. 2 (Jankee), and No. 4 (Saynak) murder deceased, and offered to point out the spot, and did so. The ground bore the appearance of a scuffle, and a sandal of the left foot was found there, which is proved to have belonged to deceased.

The prisoner now states, that in passing a nulla, the deceased was accidentally carried down the river and drowned; and he, prisoner, was crossing the nulla at the same time. This *could not have been the case;* for it is proved that the prisoner left the field a long time before the deceased did, and the appearance of the corpse showed that he was murdered.

Looking, therefore, at the corroboration the confession of prisoner No. 1 (Changnak) has received from facts, and the impossibility of his explanation, I am of opinion that the prisoner No. 1 (Changnak) is guilty of the offence with which he has been charged.

With regard to prisoner No. 3 (Bhagya), I am unable to record a conviction, although there are strong grounds for suspecting that he was *particeps criminis*. His statement, which he still adheres to, lays him open to punishment for concealment of murder; and the Joint Magistrate, should commit him to take his trial on that charge.

The prisoner No. 2 (Jankee), and prisoner No. 4 (Saynak) have throughout denied all knowledge of the murder. I am of opinion, that against Saynak (prisoner No. 4) there is no evidence whatever, and only sufficient to throw suspicion on Jankee (prisoner No. 2), that she was cognizant of murder, and, it may be, instigated it. These three prisoners are therefore acquitted, and prisoners Jankee (No. 2) and Saynak (No. 4) discharged from the bar. The prisoner No. 3

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TANNA.

Murder.

(Bhagya) is forwarded to the Joint Magistrate, with an extract from these proceedings, to be dealt with as therein directed.

The prisoner No. 1 (Changnak) is convicted of wilful murder; in that, on the evening (about 7 P. M.) of Saturday, the 2nd September 1854, (corresponding to Shunwar, Bhadrupud Shood 10th, Shuké 1776,) within the boundary of the village of Govélé, Turuf Beerwaree, Talooka Ranghur, in the Sub-Collectorate and Joint Magistracy of Colaba, at a place called Jambulpedee, he deprived Dhondnak wulud Kutnak of life, by cutting and wounding him on the head, face, and chest, with grass-sickles, from the effects of which he then and there died.

Having duly considered the nature of the offence proved against the prisoner, and the amount of punishment allowed by the Regulations, the Court proceeds to pass the following sentence:—

That you, prisoner No. 1 (Changnak wulud Yelnak, Mhar), be hanged by the neck until you be dead, at the usual place of execution at Tanna. (Regulation XIV. of 1827, Section XXVI. Clause 4th.)

This sentence is subject to the confirmation of the superior Court, to which a counterpart of these proceedings will be sent.

Letter from the Session Judge to the Sudder Foujdaree Adawlut.—I do myself the honour to forward, for the purpose of being laid before the Judges of the Sudder Foujdaree Adawlut, a counterpart of my proceedings held in the above case, wherein the prisoner Changnak wulud Yelnak, Mhar, was tried and convicted before me of wilful murder, and sentenced to be hanged by the neck until he be dead, at the usual place of execution at Tanna, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. A. Remington.—The evidence clearly proves that the prisoner Changnak was in

company with deceased on the day he was missing, and that he precipitately left the field on the plea of indisposition, and did not make his appearance at his father's house until the rest of the family had returned home; and that when asked to account for the delay, he excused himself, on the ground that he had been tending his sick cattle, a duty apparently assigned to another brother; but said nothing about being unwell himself.

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TANNA.

Murder.

As soon as the body was found, with appearances on it indicating a violent death, suspicion attached to Changnak, in consequence of a quarrel that had occurred a few days before, when deceased had formally charged him with intriguing with his daughter-in-law Jankee (prisoner No. 2). He then made a confession, and delivered up two sickles belonging to deceased, and also pointed out a lota in Bhagya's house, which the latter has now deposed he received from Changnak, as he had before admitted in his defence.

Retracting his confession, Changnak declared that deceased was accidentally drowned, and that he was present on the occasion; but from the evidence of Luxmon bin Dhondo, before the Joint Magistrate, it would seem that the water was only knee-deep, and that even in the rains it is not high enough to cause danger in crossing, a fact which is also deposed to by Bhagya. Had such been possible, and deceased been really drowned, the prisoner would have given the alarm; but he must have felt conscious that he could not be believed, and he accordingly kept the matter to himself.

Judging of the case, now materially strengthened by the approver, by the prisoner's conduct throughout, and believing, moreover, the confession to have been voluntarily made, there being nothing to show it was otherwise than a true statement, I would confirm the conviction, and sentence the prisoner to transportation.

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TANNA.

Murder.

*Resolution of the Sudder Foujdaree Adawlut.**—The conviction is confirmed, and the prisoner is sentenced to transportation for life.

1855 March 14.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

BELGAUM.

[Case No. 148 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. C. F. H. SHAW, Second Assistant Magistrate of Belgaum, on the 13th December 1854. Tried by Mr. A. W. JONES, Session Judge, on the 11th, 13th, 15th, 16th, 17th, 18th, and 22nd January 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoners.—No. 1, Nana bin Bapoo, Mahratta, aged 35.

2, Futeshing bin Raghoba, Mahratta, aged 40.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, on Saturday the 16th September 1854, (corresponding with Bhadrupud Wud 10th, Shuké 1776,) within the limits of the village of Kurnoor, in the territories of His Highness the Raja of Kolapore, wilfully and maliciously murdered one Luxmon, of the village of Kognolee, by stoning him to death with the stone now produced, or by striking him with some other equally dangerous weapon.

Finding and Sentence by the Session Judge.—In this case the prisoners are charged with murder, and plead not guilty.

It appears that the deceased went out on Saturday the 16th September last, in company with his wife, his brother, and his two partners and their wives, to cut the

* Intermediately, the Court of Sudder Foujdaree Adawlut ordered the Session Judge to take the evidence of the accomplice Bhagya wulud Krishna, Chambar, under the provisions of Section XXXIV. Regulation XII. of 1827, which was accordingly done.

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March 14.

BELGAUM.

Murder.

grain in a field he held in the neighbouring village of Kurnoor, and that they all remained there the greater part of the day, the women leaving at about 4 P. M., and all the men but the deceased Luxmon coming home at sunset. The deceased was to have remained to watch the crops till seven o'clock.

He did not, however, return at all; and his wife, getting anxious about him, got his brother Raghoo, and the young son of one of the partners in the field, to go out with her, and look for him in the field.

It does not appear, however, that they made any search that night, or even called out to him; but when they came to where the reaped grain was lying, heaped it up, and made themselves comfortable for the night. But the next morning, his wife (witness No. 4), on looking about, found the body lying in a nulla which skirts the field, the face in a puddle of water.

She immediately sent word to the village, and the Police Patel and her relations came out, and an Inquest was held, and a report drawn up, which has been proved before the Court, and which shows that there were marks of several blows on his body, apparently given with stones—one especially on the corner of his eye, near the temple; and there seems no reason to doubt that he died of these blows, or that he was murdered.

For some days after this, no clue was obtained to the perpetrators of the crime; but at length the wife of the deceased said she suspected the prisoner Nana, and mentioned the ill-will which existed between him and her husband, on account of his having as a mistress the wife of one of the deceased's cousins, who had, in consequence, both of them been put out of caste. The Police Patel thereon sent to arrest him, and for a person named Tatya, who lived in his house, and then for prisoner Futeshing, as being a friend of his, and a man named Bhairoo, who lived in Futeshing's house.

The evidence of witness No. 18, who lived in the

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house of Sukoo (prisoner Nana's mistress), is to the effect, that after dark in the night when the murder was committed, two persons, whom he knew to be the prisoners by their voices, came to the house, and prisoner Nana called to Sukoo, who opened the door, and that they (the two prisoners) then sat down to smoke, and talked, and that he overheard prisoner Nana say to Futeshing—"Do you think the thing has been completely done or not?" and prisoner Futeshing's answer was that it had; "but let us see what will happen next."

Witness Sukoo admits that prisoner Nana came to the house, but says she did not see any one with him.

Witness Bhairoo, who had been living at the time of the murder four months in the house of the prisoner Futeshing; states that on the Sunday night the prisoner Nana came to the house, and spoke to the prisoner Futeshing, and that he knew them by their voices: that prisoner Nana said—"Luxmon has been killed; what will happen next?" and that prisoner Futeshing answered—"Some one will hear; do not speak of it."

Witness Narain Bhut also states, that on the Monday morning, when he went to the house of prisoner Futeshing, he found prisoner Nana sitting with him, and that he asked him, as being the village astrologer, whether the consequences of something he had done would fall on him or not.

The evidence of these witnesses is not objected to as that of persons having any ill-will against the prisoners; and that of witness Bhairoo was given with the greatest reluctance. At the same time, it is not of the description which can be much relied on; and it must be observed, that although the Patel states he obtained it before the prisoners were arrested, yet none of it was taken down in writing till a fortnight after the murder had been committed, and ten days or so after the prisoners were arrested.

It appears, however, that at the back of prisoner

Nana's house is a cattle-shed, without any door to close it up, and that on its being searched in the presence of the Joint Police Officer, the Police Patel, the prisoner Nana, witnesses Nos. 13, 14, and 15, a pair of old shoes or sandals were found, which witness No. 4 (Rajoo) identified as having belonged to her husband the deceased. It appears by the evidence of the Police Patel, and witnesses Nos. 13 and 15, that the prisoner at first declared the shoes were his own, but subsequently admitted they had belonged to the deceased.

These are shown to have belonged to the deceased by the evidence of his wife, his two brothers, and two other witnesses; and one of these, his partner in the field, near which the body was found, deposes to the deceased having worn them at this field, on the day of his death; and as they are old and worn, the Session Judge thinks there can be no doubt that they would be easily identified by any of the deceased's friends, and that their identification is satisfactorily established.

It appears, also, by the evidence of the Police Patel, that the prisoners had confessed the crime before he reported the matter to the Police Amuldar, and that it was after this that the Joint Police Officer came to the village, and the prisoner Nana's house was searched; and that when taken before the Police Amuldar at Chikoree, both of them confessed the crime; and that these confessions were voluntarily given, has been proved before the Court. They were, however, repudiated by the prisoners, both before the Assistant Magistrate and the Court.

They are to the effect that prisoner Nana wished to get rid of Luxmon, for having put his cousin and his wife Sukoo out of caste, on account of the intrigue which the prisoner carried on with this Sukoo, and that they had frequent quarrels about this; and that he therefore, having got the assistance of the prisoner Futeshing, went to the field of the deceased on the Saturday even-

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ing, and there attacked him, striking him first with a stone in the corner of the eye, which knocked him down, and then getting on him, and beating him with his knee until he died; and that, finding a pair of the deceased's sandals lying on the ground, he put them on, as he had none with him, and walked home in them.

Considering, therefore, that it is undoubted that the prisoner Nana was in constant public criminal intercourse with Sukoo, the deceased's relation, and that she and her husband were put out of social communion with the deceased and his relations, and, therefore, that there can be no doubt there would be ill-will between them; and that the finding of the pair of sandals, shoes belonging to the deceased, in his stable, is also established; the Session Judge thinks that there is sufficient ground to believe that the confession was really made, as deposed to by the witnesses Nos. 21 and 22, and that it is true, and therefore convicts the prisoner Nana bin Bapoo of murder; in having, on Saturday the 16th September 1854, (corresponding with Bhadrupud Wud 10th, Shuké 1776,) within the limits of the village of Kurnoor, in the territories of His Highness the Raja of Kolapore, wilfully and maliciously murdered one Luxmon, of the village of Kognolee, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, by stoning him to death with the stone now produced, or by striking him with some other equally dangerous weapon.

The prisoner Futeshing's confession has only in corroboration of it the conversations said to have passed between him and prisoner Nana; and as the Session Judge does not think this sufficient for conviction, he is acquitted.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed:—

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BELGAUM.

Murder.

That you, Nana bin Bapoo, be transported across the seas, for the term of your natural life.

Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The Session Judge has found sufficient evidence to allow of a conviction, upon the retracted confession of the prisoner. Such a confession might easily have been concocted sixteen days after Luxmon's decease, and made to contain the mention of incidents which were capable of corroboration by what was known at the time, for nothing was elicited subsequently. It bears every appearance of a fabrication.

The Court consider that there is a want of proof that the deceased was murdered; the marks on his body might have been caused by a fall. He may have fallen from a fit, or other cause; and his face falling in the water, he might have lain till he was suffocated.

The cause of death was imperfectly investigated. The evidence to support the charge is very inconclusive. The conduct of the deceased's wife, when her husband did not return home, and she went to the field, is incomprehensible. She appears to have made no search whatever for her husband, though she professedly went with that object.

The evidence of Bhairoo is to the effect that more than twenty-four hours after the murder, the prisoner informed his accomplice of what they had done together!

As to the astrologer's evidence, the prisoner simply explains that it refers to another matter.

The finding of the shoes so many days after the death of Luxmon is no proof of the prisoner's guilt. There had been ample opportunity for their being placed where they were found by other parties, interested in the accusation.

Finally, no motive whatever for the murder is apparent. To find it in the two years' old intrigue with

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BELGAUM.

Murder.

Sukoo, or in the equally old invitation to Rajoo, is absurd.

The Court have seldom reviewed so weak a case.

The prisoner is acquitted, and is to be discharged.

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SURAT.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 3 of the Calendar of the Surat Sessions Court for 1855. Committed by Mr. E. W. RAVENSCROFT, Assistant Magistrate, on the 18th January 1855. Tried by Mr. H. HEBBERT, Acting Session Judge, on the 22nd January 1855. Proceedings submitted for decision, under the provisions of Regulation XIV. of 1827, Section XXII. Clause 2nd, by the Acting Session Judge.]

Escape from Custody before Sentence.

Prisoner.—Runchor Chito, Dooblo, aged 30.

Charge.—Escape from custody before sentence; in having, on the night of the 11th Poush Shood, Sumvut 1911, (corresponding with 29th December 1854,) when confined in an open 'chora' in the village of Bandhan, Purgunna Mandvee, on a charge of robbery, ran away and escaped.

The prisoner pleads guilty.

Finding and Sentence by the Acting Session Judge.—There can be no doubt the prisoner did that of which he is accused. He admits it. He is therefore convicted on his own confession.

The question, however, for consideration, is, whether what the prisoner is accused of is penal or not. When he effected his escape, he was in confinement on a charge of robbery; but that charge has since been dismissed, it being held by the Deputy Magistrate not proved. This appears from the evidence of the two persons the Court examined touching the circumstance, and also from an observation on the face of the Assistant Magistrate's proceedings. Such being the fact, the Court entertains

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great doubts as to the application of the law in this instance.

It is enacted in Regulation V. of 1831, Section II. that "escapes from custody before sentence shall be liable to the same penalties as those attempted or effected afterwards"; and again, in Regulation XIV. of 1827, Section XXIV. it is enacted, that "any person who shall effect his escape from custody after sentence, shall be liable to suffer punishment of the same nature as that to which the act for which he had originally *been sentenced* is liable, except &c." The Court cannot otherwise than think provision is here made for the further punishment only of such as have been sentenced for the crime for which they were in confinement when they effected their escape. The prisoner has not been so sentenced; the Court, therefore, is at a loss to know the nature of the punishment to which he is now amenable. He has been found guilty of no act for which punishment is awarded.

The Court finds a parallel case recorded in Morris's Criminal Reports of the Sudder Foujdaree Adawlut, Vol. II. pages 563-566, in which the Judges appear to have thought the prisoner was punishable; but the Court does not coincide in that view. The arguments by which it is supported do not seem conclusive. It is there observed, that the words in Regulation V. of 1831, Section II.—"the extent or degree of punishment being governed by the mode of escape, show clearly that the gravamen of the offence is the escape"; but it appears to the Court those words have reference only to the punishment to be awarded: they assume that the offence charged is penal, and proved. Again, it is also there observed, that were the reading of the Regulation adopted by the Court correct, "the Peon who wilfully permitted a man to escape would not be liable to punishment, in the event of the charge on which the man was in custody not being proved against him; nor could the Peon be

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tried until the prisoner had been retaken, and it was ascertained whether he was guilty of the offence or not." But the Court cannot see how the fact that one offence will not be punishable, if another be not so also, in any way proves that other to be punishable. The Court does not think the Peon would be punishable—at least has very great doubts about it—under the circumstances mentioned, for permitting or aiding in the escape; but he might, perhaps, be so for misconduct, under Regulation XII. of 1827, Section VIII. It appears to the Court that the law is defective on the point in question, and that escapes before trial, when the party is afterwards acquitted of the offence for which he was in confinement, yet require to be distinctly provided for.

Under this view, the Court will, agreeably to the provisions of Regulation XIII. of 1827, Section XXII. Clause 2nd, refer this case to the Court of Sudder Foujdaree Adawlut, in order to a further consideration of the point involved, and its final decision.

The prisoner is informed, accordingly, of the reference it is proposed to make.

Minute recorded by Mr. W. H. Harrison.—The Session Judge has referred this case for the Court's consideration, under Section XXII. Regulation XIII. of 1827. I think, reading the provisions of Regulation V. of 1831 in connection with Regulation XIV. of 1827, Section XXIV., that escapes from custody before sentence are penal, although that sentence may have been an acquittal. A party in confinement is bound to submit to that coercion until lawfully delivered from it; and the punishment must be regulated by that to which the offence charged is liable within the limit prescribed. This view has been several times acted upon, and the present case may be disposed of accordingly.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Court consider that the meaning

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of the word "sentence," in Regulation V. of 1831, is the definitive judgment pronounced in the case, including, of course, an "acquittal"; and, so construing the word "sentence," the Court hold the conviction in the present case to be good, and return the proceedings for final disposal.

In respect to the punishment, the Session Judge is to be reminded, that by Section XXIV. Regulation XIV. of 1827, the punishment for this offence is regulated by the limit assigned to the commission of the substantive offence.

Return of the Session Judge.—In return to the within Precept, the Acting Session Judge begs to submit the following, which he trusts will be admitted as a sufficient reason for not having carried into execution the directions conveyed in its accompanying extract of proceedings.

It appears to the Acting Session Judge, that Regulation XIII. of 1827, Section XXII. Clause 2nd, contemplates all cases referred under it to the Court of Sudder Foujdaree Adawlut being decided by the Judges of that Court, and not by the lower Court. The only precedents the Acting Session Judge can find confirm this view. They are printed at pages 55 and 85 of Bellasis' Reports of Criminal Cases. In both these instances, the Judges of the Sudder Foujdaree Adawlut passed sentence in the cases referred to them.

Under this view, the papers and proceedings received back with this Precept are again re-transmitted herewith, in order to the final disposal of the case.

The Acting Session Judge would further submit for consideration, the propriety of publishing an Interpretation to the purport contained in the 1st paragraph of the extract of proceedings forwarded to him with this Precept; otherwise the meaning of the word "sentence" still remains matter only of opinion; and he, with all

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deference, must say he does not coincide in that expressed by the Court of Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The Acting Session Judge is to be referred to the concluding part of Clause 2nd, Section XXII. Regulation XIII. of 1827, which provides for the postponement of the sentence, pending the order of the Sudder Court; whose later practice has been, after settling the point of law referred, to remit the case to the Sessions Court for disposal, as Mr. Hebbert will find in the January Number of Reports for the current year, page 55, which case, as well as the present, which will be reported, will answer every purpose of an Interpretation; as, after all, no new construction is placed upon the meaning of the word "sentence."

The Session Judge will therefore dispose of the case as before directed.*

* *Return of the Acting Session Judge to the Precept of the Sudder Foujdaree Adawlut.*—In return to the within Precept, it is hereby certified to the Sudder Foujdaree Adawlut, that the extract from the Court's proceedings which accompanied it has been duly received, and, as directed therein, the case has been disposed of by the Acting Session Judge, and the prisoner has been sentenced to be imprisoned for one day.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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BELGAUM.

[Cases Nos. 150 and 151 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. A. E. D. GREY, Third Assistant Magistrate of Belgaum, on the 15th December 1854. Tried by Mr. A. W. JONES, Session Judge, on the 30th December 1854, and 18th and 23rd January 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Suninga bin Sutyapa, Bedur, aged 25.

Gang Robbery with Force, by Night; Receipt of Property, knowing it to be Stolen; and Escape from Custody before Sentence.

Charge in Case No. 150.—Gang robbery with force, by night (Regulation XIV. of 1827, Section XXXVII. Clause 1st); in having, on the night of Wednesday the 17th March 1852, (corresponding with Falgoon Wud 12th, Shuké 1773,) in company with Doorga, and others, armed, forcibly entered the house of Eerapa Hoogee, in Busapoor, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah, and robbed therefrom property, valued at Rs. 3,317-8-0.

And further charged, under Regulation XIV. of 1827, Section XLI. Clause 1st, with receipt of property, knowing it to be stolen; in having, some time between the 17th March 1852, (corresponding with Falgoon Wud 12th, Shuké 1773,) and 3rd May 1853, (correspondig with Chuitru Wud 10th, Shuké 1775,) received from some person or persons property, consisting of two earrings, of the estimated value of Rs. 20, being part of the property robbed from Eerapa Hoogee.

Charge in Case No. 151.—Escape from custody before sentence (Regulation V. of 1831, Section II.); in having, on or about the 3rd May 1853, (corresponding with Chuitru Wud 10th, Shuké 1775,) escaped from custody, while in confinement in the Unkulgee District Police Officer's Kutcherry, on a charge of gang robbery.

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BELGAUM.

Gang Robbery with Force, by Night; Receipt of Property, knowing it to be Stolen; and Escape from Custody before Sentence.

Finding by the Session Judge in Case No. 151.—The prisoner is charged with escape from custody before sentence, and pleads guilty.

It appears that the prisoner was arrested on a charge of having been one of a number of persons who committed a gang robbery in Busapoor, in March 1852, and that he was confined in the Kutcherry of the Unkulgee District Police Officer, and that he escaped thence on the night of the 3rd May 1853.

The prisoner pleads guilty, and admits before the Court a statement in which he acknowledges this, and is therefore convicted, on his own confession, of having escaped from custody before sentence; in having, on or about the 3rd May 1853, (corresponding with Chuitru Wud 10th, Shuké 1775,) escaped from custody while in confinement in the Unkulgee District Police Officer's Kutcherry, on a charge of gang robbery.

And as, however, there is another charge against the prisoner, the sentence in this case is deferred, and the prisoner is remanded to the custody of the Nazir.

Finding and Sentence by the Session Judge in Case No. 150.—In this case the prisoner is charged with gang robbery with force, and pleads not guilty.

It appears, that on the night of the 17th March 1852, a large gang of armed robbers entered the village of Busapoor, and plundered the house of Eerapa bin Sewbusapa there, of property, valued at Rs. 3,317, and that one of the villagers died of wounds received during the affray. A number of these robbers were arrested and tried, and in the course of the trial, one of the number was admitted as an approver, and on his and other evidence twelve of them were transported for life, and others sentenced to lesser punishments.

Among the persons named by the approver as engaged in this robbery was the prisoner Suninga, and he was accordingly sought for by the Police in all directions,

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Gang Robbery with Force, by Night; Receipt of Property, knowing it to be Stolen; and Escape from Custody before Sentence.

but was not found until April 1853, when he was seized by some Sepoys, who had been sent with the approver for the purpose, and brought to Padshapoor. The Dufedar (witness No. 7) shows, that he was sent from thence with the prisoner and approver, and that they went on information given by the prisoner to the boundaries of the villages of Wuntmooree and Rawunkuty, having been joined in the latter village by two Shetsundees (witnesses Nos. 9 and 10); and these three witnesses show, as is also testified by the approver, that the prisoner took them to a particular 'band' at this spot, and took out of it with his own hands a little bag, containing a pair of 'kapjoda,' or gold earrings, of a particular shape and pattern; and these ornaments are identified by Eerapa, and two of his friends, as having belonged to him; and Eerapa also deposes that they are part of the property he lost at the robbery. The prisoner is, moreover, shown to have confessed these circumstances before the District Police Officer of Padshapoor, shortly after his arrest, as described above, and this was proved to have been given voluntarily before the Court.

The prisoner, however, denied, both before the Assistant Magistrate and the Session Judge, ever having made such a confession, and asserted that these ornaments had been taken from persons whom he named, and given to him, and that he had been obliged to say they were part of the property obtained in the robbery. But, independent of the identification of these ornaments by Eerapa and his friends, and the evidence as to the manner in which they were given up by the prisoner, which the Session Judge can see no reason to doubt, the two persons from whom the prisoner asserted they had been obtained were examined before the Court, and denied, not only having given these ornaments to the Police, but ever having had any ornaments of the kind in their possession.

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Considering, therefore, that this assertion has been thus clearly disproved; that the prisoner was named as one of the robbers in the approver's evidence at the trial of the mass of the robbers; that the approver's evidence before the Court now, agrees on that point with the evidence he had formerly given, and that it is also proved that the prisoner has been absent from his village for several years following the robbery; that he is then shown to have given up some ornaments as part of the plunder he had received in it, and this immediately after his capture, and that he then escaped, and remained absent for a year and a half,—the Session Judge thinks there is no reason to doubt the truth of the evidence of the approver against him, and therefore convicts him of gang robbery with force, by night; in having, on the night of Wednesday the 17th March 1852, (corresponding with Falgoon Wud 12th, Shuké 1773,) in company with Doorga and others, armed, forcibly entered the house of Eerapa Hoogee, in Busapoor, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah, and robbed therefrom property, valued at Rs. 3,317-8-0.

And after considering the nature of the crime committed, together with the conviction in Case No. 151 of 1854, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXXVII. Clause 1st, and Section II. Regulation V. of 1831, the following sentence is passed:—

That you, Suninga bin Sutyapa, be transported across seas, for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Letter from the Session Judge to the Sudder Foujdaree Adawlut.—I have the honour to forward, for the confirmation of the Judges of the Sudder Foujdaree Adawlut, counterpart of my proceedings in the above cases, wherein Suninga bin Sutyapa has been convicted of gang robbery with force, by night, and escape from custody before sentence, and sentenced to transportation.

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Gang Robbery with Force, by Night; &c.

It will be observed, that the Assistant Magistrate, in framing the charge against the prisoner, omitted the words "attended with murder," and I regret to say it escaped my notice, till too late.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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DHARWAR.

[Case No. 146 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. J. R. ARTHUR, Acting Second Assistant Magistrate, on the 2nd December 1854. Tried by Mr. A. W. JONES, Session Judge, on the 11th December 1854, and 3rd, 4th, 5th, 6th, 9th, 10th, 11th, and 17th January 1855. Proceedings submitted, for confirmation of the Sudder Foujdaree Adawlut.]

Gang Robbery, with Force; Receipt of Stolen Property, knowing it to be Stolen; Aiding and Instigating in the offence of Gang Robbery; and Concealment after the fact.

Prisoners.—No. 1, Bhoja oorf Ramjee bin Oomajee, Lumbanee, aged 40.
2, Jerya bin Rachapa, Lingayeet, aged 40.
3, Chunbusapa bin Moogapa, Lingayeet, aged 50.
4, Murdan wulud Rustam, Mussulman, aged 60.
5, Hujoo wulud Murdan, Mussulman, aged 22.
6, Gootya bin Hoochuna, Kubeer, aged 30.
7, Busya bin Busupa, Oopar, aged 30.
8, Rowjia bin Eshwura, Lumbanee, aged 45.
9, Deedya bin Dhurma, Lumbanee, aged 32.
10, Ramjee bin Narain, Lumbanee, aged 38.

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Prisoners.—No. 11, Ramchunder bin Sewa, Lumbanee, aged 30.
12, Ragoo bin Bhugwan, Lumbanee, aged 50.
13, Mega bin Chisna, Lumbanee, aged 40.
14, Dowjee oorf Rowjee bin Bhugwan, Lumbanee, aged 26.
15, Rega bin Rehman, Lumbanee, aged 28.
16, Sonia bin Rama, Lumbanee, aged 35.
17, Bheema oorf Kesha bin Ramjee, Lumbanee, aged 30.
18, Ramana bin Goorupa, Lingayeet, aged 50.
19, Buswana bin Ramapa, Lingayeet, aged 20.
20, Neelowa, wife of Sungunbusya, Lingayeet, aged 44.
21, Jumalbee, wife of Fakeersha, Mussulmanee, aged 26.

Charge.—Against prisoners Nos. 1 to 17, gang robbery, with force (Regulation XIV. A. D. 1827, Section XXXVII. Clause 1st); in having, on the night of Wednesday the 27th September 1854, (corresponding with Ashwin Shood 5th, Shuké 1776,) forcibly attacked the house of one Busungowra, in the village of Jaiknaikunkope, in the Hangul Talooka of the Dharwar Division and Zillah, and robbed therefrom property, valued at Rs. 92-4-0.

Against prisoners Nos. 18, 19, and 21 (Ramana, Buswana, and Jumalbee), receipt of stolen property, knowing it to be stolen. (Regulation XIV. A. D. 1827, Section XLI. Clause 1st.)

Against prisoners Nos. 18 and 19, aiding and instigat-

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ing in the offence of gang robbery. (Regulation XIV. A. D. 1827, Section XXXVII. Clause 1st, and Section I. Clause 5th.)

And against prisoner No. 20 (Neelowa), concealment after the fact (Regulation XIV. A. D. 1827, Section XXXVII. Clause 1st, and Section I. Clause 5th); in having been aware of the commission of the above crime, and yet having given no information on the subject to the Authorities.

The prisoner Bhoja oorf Ramjee pleads guilty.

The other prisoners plead not guilty.

Finding and Sentence by the Session Judge.—In this case, the prisoners from Nos. 1 to 17 inclusive are charged with gang robbery, with force.

Prisoners Nos. 18 and 19 are charged with instigating and aiding in gang robbery; and these two prisoners (Nos. 18 and 19), with prisoner No. 21, are charged with the receipt of property, knowing it to be stolen.

And the prisoner No. 2 is charged with concealment of gang robbery after the fact.

The prisoner No. 1 (Bhoja) pleads guilty; all the other prisoners plead not guilty.

It appears, that late in the evening of Wednesday the 27th September, a party of men came into the village of Jaiknaikunkope with torches, and attacked the house of the Patel Busungowra. As they were entering the village, however, they happened to meet him, and he, seeing their object, ran back into the village, and called for assistance; and some of the neighbours coming up, joined with him in defending his house, and at last beat the robbers off, capturing one of their number.

They also left a 'pugree,' and several of their sticks and torches, but they managed nevertheless to carry off some property, valued at about Rs. 90.

The prisoner thus captured is prisoner Bhoja (No. 1 of the case), who has pleaded guilty, and admitted his

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confession before the Court; and he is accordingly convicted of gang robbery, with force.

It appears that the whole of the prisoners, with the exception of prisoners Ramana and Buswana (Nos. 18 and 19), pleaded guilty, and admitted their confessions before the Assistant Magistrate; but on being arraigned before the Sessions Court, they with one exception all pleaded not guilty. As, however, in the course of the trial, some of them admitted the confessions they had previously made, the Session Judge thought it advisable to admit one of these as an approver, in order to strengthen the evidence against the rest.

The evidence of this person (Murdan) is to the effect that the plan of the gang robbery was laid by prisoners Jerya, Chunbusapa, Ramana, and Buswana (Nos 2, 3, 18, and 19), the two last of whom are the Police Patel of Hurgunhully, in the Canara Zillah, and his son; that he was employed by them to get the Lumbanees in the neighbourhood to join; that prisoner Chunbusapa accompanied him on his second visit to these people, and arranged with them for their aid; that on the day of the robbery he went to the encampment of these Lumbanees, with prisoners Jerya and Chunbusapa, and was sent on first towards Jaiknaikunkope with seven or eight of the Lambanees, meeting on the way the blind witness Fukeera; that the rest came up and joined them near a hill beyond a village named Hotunhully, where they all waited till it was dark; and that having procured sticks from the jungle, and having lighted the torches they had brought with them, they all went into the village of Jaiknaikunkope, and perpetrated the robbery. In consequence, however, of the resistance of the villagers, only two bundles of clothes were carried off, and they were in the hands of prisoners Busya and Gootya. That when they had got a certain distance, these bundles were opened, and some 'sarees' taken out, which were

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retained, while the 'godras' were left on the ground; and that the party then dispersed in different directions to their houses.

Now it appears that prisoners Jerya and Gootya were seen going towards Jaiknaikúnkope on the day of the robbery, followed by some Lumbanees, and there is no doubt of this meeting, as described by witness No. 17, for the prisoners admitted it by their questions to him; and considering this together with their own admissions of the crime before the Police Authorities, and the Assistant Magistrate, which, although now repudiated, are proved to have been made voluntarily then, as sufficiently corroborating the evidence of the approver against them, the Session Judge convicts them both of gang robbery, with force.

The prisoner Chunbusapa is shown by witness No. 13 to have brought some of the articles taken in the robbery to the house of her son-in-law, prisoner Ramana, and, together with prisoners Busya, and Buswana (the son of prisoner Ramana), to have taken part of this property, consisting of a saree, some bundles of yarn, and clothes, away again the next day.

It is shown, also, that prisoner Busya took the District Police Officer of Adoor and other persons to the house of one Nagapa, and there gave up these articles as part of the property obtained in the robbery; and the District Police Officer, the complainant, and witnesses Nos. 6 and 16, all depose that this Nagapa, who has since died, admitted, in giving up these articles, that they had been placed with him by prisoners Busya, Chunbusapa, and Buswana.

Considering, therefore, that this evidence is sufficient to establish the truth of the confessions, which, although now repudiated by these prisoners, are proved to have been made before the Police Authorities, and admitted before the Assistant Magistrate, the Session Judge is of

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opinion that they (prisoners Chunbusapa and Busya) may also be convicted of gang robbery, with force.

The prisoner Hujoo was actually recognised in the gang robbery by witness No. 6, who joined the complainant in resisting the attack of the robbers, and there is no reason to doubt this; and it is shown by witness No. 15 that this prisoner sold him a saree, which, immediately he heard of the prisoner's arrest on account of the robbery, he gave up to the Patel of his village; and this story is confirmed by the Patel (witness No. 16), who took the saree to the District Police Officer of Adoor, who was inquiring into the robbery at Muntghee, and this saree is identified as the complainant's. And it is shown, also, that this prisoner confessed his share in the crime before the Police Authorities, and admitted it also before the Assistant Magistrate; and this, and the evidence of the approver (his own father), is sufficient, therefore, to warrant his conviction of the crime charged against him.

The prisoner Ramjee is shown to have confessed before the Police Authorities, and to have admitted his confession before the Assistant Magistrate. This confession is repudiated; but he admitted before the Court that he belonged to the same 'tanda' of Lumbanees as the others concerned in the robbery, and he is one of those pointed out by the approver; and the Session Judge considers, therefore, he also may be convicted of gang robbery.

The prisoner Ramchunder repudiated before the Court the confession he had made before the Police Authorities, and which he is also proved to have admitted before the Assistant Magistrate; but he is also pointed out by the approver as one of the Lumbanees concerned in the robbery, and at the close of the trial he admitted that he had gone with the people of Hurgunhully, and that they had then got him into this scrape, which is nothing less,

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therefore, than an admission that he was concerned in this robbery; and he may also, therefore, be convicted of gang robbery, with force.

The prisoners Rowjia, Deedya, Ragoo, Mega, Dowjee, Rega, Sonia, and Bheema, all admitted before the Court the confessions they had made before the other Authorities, in which they acknowledged the shares they had severally taken in the gang robbery; and they are therefore all convicted of gang robbery, with force.

Prisoner Jumalbee also admitted her previous confessions before the Court, and she is accordingly convicted of the receipt of stolen property, knowing it to be stolen.

The prisoners Ramana and Buswana are father and son, the former being the Police Patel of Hurgunhully, in the Canara Zillah. It is shown by witness No. 13, the mother-in-law of Ramana, that certain of the property lost in the robbery (and identified as his own by the complainant, and by others as belonging to him) was brought into this prisoner's house by prisoner Chunbusapa, and that part of this property was taken away again by prisoners Buswana (Ramana's son), Busya, and others, while part of it was left in the house; and it appears that prisoner Chunbusapa allows he is a servant of the prisoner Ramana's, and that prisoner Ramana has not denied this connection between them at any time. It is also shown by witness No. 13 that, frightened at hearing of the arrest of Ramana, she concealed three brass platters (which, with a 'tumbaloo,' had been left in the house, as stated above) in the house of prisoner Jerya, and threw away the tumbaloo in the yard; and that after the District Police Officer had left the place, and she had recovered from her alarm, she brought back the tumbaloo into the house, and subsequently gave it up to witness No 14. It is then shown, also, by the District Police Officer, and by witness Ninga (No. 14), who had been in the prisoner Ramana's service

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for a month before the robbery, that the Patel Ramana, when in arrest at Jaiknaikunkope, told him to go to witness No. 13 and get the tumbaloo, which that witness deposes to having given up to him.

These two prisoners are also shown to have admitted their guilt before the District Police Officer; but these confessions were repudiated before the Assistant Magistrate and the Sessions Court, and the Assistant Magistrate states that he is inclined to doubt their having made these statements as freely as it is stated. But, beyond their own assertions, there is nothing to support this doubt, while the evidence against them is such as must be considered strongly corroborative of that given by the accomplice, as to their having been concerned in the previous arrangements for the robbery. The prisoners, moreover, have made no defence whatever beyond a simple denial of the charge; and the Session Judge therefore considers it is sufficiently made out, and convicts both prisoners, Ramana and Buswana, of aiding and instigating in gang robbery.

The other minor charge against these prisoners need not, under these circumstances, be pressed against them.

The evidence against prisoner Neelowa consisting solely of her own confession, now repudiated, she must be acquitted, and is accordingly discharged.

Prisoners No. 1 (Bhoja), No. 2 (Jerya), No. 3 (Chunbusapa), No. 5 (Hujoo), No. 6 (Gootya), No. 7 (Busya), No. 8 (Rowjia), No. 9 (Deedya), No. 10 (Ramjee), No. 11 (Ramchunder), No. 12 (Ragoo), No. 13 (Mega), No. 14 (Dowjee), No. 15 (Rega), No. 16 (Sonia), and No. 17 (Bheema), are convicted of gang robbery, with force; in having, on the night of Wednesday the 27th September 1854, (corresponding with Ashwin Shood 5th, Shuké 1776,) forcibly attacked the house of one Busungowra, in the village of Jaiknaikunkope, in the Hangul Talooka of the Dharwar Division

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and Zillah, and robbed therefrom property, valued at Rs. 92-4-0.

Prisoners Nos. 18 (Ramana) and No. 19 (Buswana) are convicted of aiding and instigating in the offence of gang robbery.

And prisoner Jumalbee is convicted of the receipt of stolen property, knowing it to be stolen.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXXVII. Clause 1st, Section I. Clause 5th, and Section XLI. Clause 1st, and that the people of Hurgunhully, and especially the Patel Ramana, must be considered as the originator and chief instigator of the crime, the following sentence is passed:—

That you, prisoners Ramana (No. 18), Jerya (No. 2), Chunbusapa (3), and Busya (No. 7), be imprisoned and kept to hard labour, for eight (8) years. Subject to the confirmation of the Sudder Foujdaree Adawlut.

And that you, prisoners No. 1 (Bhoja), No. 5 (Hujoo), No. 6 (Gootya), No. 8 (Rowjia), No. 9 (Deedya), No. 10 (Ramjee), No. 11 (Ramchunder), No. 12 (Ragoo), No. 13 (Mega), No. 14 (Dowjee), No. 15 (Rega), No. 16 (Sonia), No. 17 (Bheema), and No. 19 (Buswana), be imprisoned and kept to hard labour, for six (6) years.

And that you, Jumalbee, be imprisoned and kept to hard labour, for six (6) months.

Issued the usual warrant to the Nazir, and to keep the prisoners Ramana, Jerya, Chunbusapa, and Busya, in safe custody, pending the orders of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The evidence of the approver ought not to have been used against Ramjee (prisoner No. 10), as he was removed from Court* before the witness gave his deposition, which was

* He was removed from Court to the Jail Hospital, on account of illness.

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not read over in the prisoner's presence on his return to Court the following day. The evidence is insufficient against Ramchunder (prisoner No. 11), and Jumalbee (prisoner No. 21) did not confess that she received the saree, knowing it to have been stolen.

The conviction and sentences on the prisoners Nos. 10, 11, and 21 (Ramjee, Ramchunder, and Jumalbee), are therefore annulled, and they are to be discharged.

The convictions of the prisoners Ramana (No. 18), Jerya (No. 2), Chunbusapa (No. 3), and Busya (No. 7), are confirmed; and, with reference to Circular Order No. 428, prisoners Jerya (No. 2), Chunbusapa (No. 3), Busya (No. 7), and Ramana (No. 18), are sentenced to six years' imprisonment, with hard labour.

The sentences on the rest of the prisoners are mitigated to four years' imprisonment, with hard labour.

The good conduct of the witnesses Nos. 4, 5, and 6, being deserving of special notice, the Court direct that they receive a reward of Rs. 20 each, under Section XXXIII. Regulation XII. of 1827.

The Session Judge is to be requested, in future cases, when more prisoners than one are on their trial, to let the number of each appear after his name, whenever this is mentioned on the record, and in the letter handing on the case, if it is one requiring the confirmation of the Sudder Foujdaree Adawlut.

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BELGAUM.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 138 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. A. E. D. GREY, Third Assistant Magistrate of Belgaum, on the 10th November 1854. Tried by Mr. A. W. JONES, Session Judge, on the 19th, 21st, and 23rd December 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners Bala bin Murtuma, Bheema bin Koondapa, Hunma bin Busya, Hutela bin Koondapa, Balya bin Koondapa, and Doorgawa kom Bheema.]

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Gang Robbery with Force, by Day.

Prisoners.—No. 1, Bheema bin Koondapa, Wudur, aged 34.
2, Balya bin Koondapa, Wudur, aged 25.
3, Bala bin Murtuma, Wudur, aged 28.
4, Hutela bin Koondapa, Wudur, aged 40.
5, Hunma bin Busya, Wudur, aged 30.
6, Fukeera bin Koondapa, Wudur, aged 15.
7, Akmunchee kom Bala, Guntichore, aged 20.
8, Doorgawa kom Bheema, Wudur, aged 30.

Charge.—Gang robbery with force, by day (Regulation XIV. Section XXXVII. Clause 1st of 1827); in having, on Saturday the 14th October 1854, (corresponding with Ashwin Wud 8th, Shuké 1776,) in the limits of the village of Beedur Boodehal, in the Badamee Talooka, in the Belgaum Division of the Dharwar Zillah, forcibly robbed one Swamrow Venkutesh of property, consisting of Rs. 165 in cash, and of ornaments to the value of Rs. 36, in all Rs. 201.

Finding and Sentence by the Session Judge.—In this case the prisoners are charged with gang robbery with force, by day, and plead not guilty.

It appears that on Saturday the 14th October, a Karkoon of the Liquor Contractor of Badamee, named Swamrow, left Badamee for Bagulkote, on business, having with him two servants.

On their way they came to a field at a short distance from Boodehal, where the prisoners Bheema and Balya were sitting, both of whom were known to the complainant's two servants as having frequently come for

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liquor to Badamee. These prisoners at first asked for tobacco, and then called the servant Rungya to them, and offered to sell some ornaments to the party, for he had been joined after a short time by the complainant, and the other servant; and when they refused, and were moving off, the prisoners Bheema and Balya caught the complainant by the hand, and pulled him off his horse, and as he fell, a bag containing Rs. 165 dropped to the ground, which complainant says the prisoner Bheema immediately seized, and handed to the prisoner Doorgawa. He also states that prisoner No. 2 (Balya) held him while the prisoner Doorgawa took off his rings, &c. and then they beat him until he agreed to give a 'razeenama,' stating that he had nothing to complain of.

Witness Rungya gives the same account of this as to the seizing of Swamrow by the prisoners Bheema and Balya, and states that he himself was seized and held by the prisoner Bala, assisted also by the prisoner Balya, and that they were all threatened unless they gave a razeenama.

Witness Balya also gives the same account, stating that he saw the bag of rupees fall to the ground when Swamrow was seized by the two first prisoners, and that prisoner No. 1 handed it to the prisoner Doorgawa, and that the prisoners Hunma and Hutela pulled him down, and beat him with their fists; and that he and his companions were not released until Swamrow had agreed to pass a razeenama.

On this, the whole party went on to Boodchal, and the Police Patel was sent for, and then the Koolkurnee and some ryots, and a razeenama was written out by the complainant; but this, it is shown, was to the effect that Swamrow and the prisoners had had a quarrel about a charge of Rs. 2 for some liquor supplied, and that they had now arranged the matter, and this razeenama was signed by the complainant, and witnessed,

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in presence of the Koolkurnee, by some ryots. The Patel and Koolkurnee were examined, and they say that the complainant and his servants, with the prisoners, came to the Chowree, and said they had had such a quarrel as is above described as the subject of the razeenama, and that it was written; but both declare they heard nothing of the beating or robbery, and the Shetsundee Bheema (who was the person sent for the Patel and Koolkurnee), also deposes to the same effect; and he and the Koolkurnee state that the prisoners Nos. 1, 2, 3, 4, and 5 (Bheema, Balya, Bala, Hutela, and Hunma) were with the complainant when they came to the Chowree.

The complainant states, however, that he told the real truth to the Koolkurnee, and was advised by him to write the razeenama, or that he would not escape.

But, however this may be, he went back to Badamee, and wrote a petition to the Police Amuldar that very evening, stating that he had been beaten, and robbed of a bag of Rs. 165, and some ornaments; and so the next morning that Officer went to Boodehal, taking with him four or five Peons, the Koolkurnee of Badamee, and the complainant and his servants.

Prisoner No. 2 (Balya) was the first person pointed out, and then all the rest were seized and put in arrest, and some houses were searched, without success, until two boys, who are said to have belonged to the party, agreed to show where some of the property was hidden, and did so, pointing out a place in the house of the prisoner Bheema, whence the two Peons (witnesses Nos. 9 and 10) dug out a bag containing Rs. 150, in the presence of the Police Amuldar, the complainant, the Koolkurnee Shunkrapa, and the prisoners; and the two Sepoys and this Koolkurnee state, that on being questioned about this bag of money, the prisoners could then say nothing.

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The bag in which this money was found appears to the Session Judge to have been proved sufficiently to have belonged to the complainant by his servant, and by witness Venkajee, Patel of Badamee, who had been in the habit of receiving the receipts for liquor (while the sale was conducted by witness Rungya for ten or twelve days, on the part of Government) in this very bag.

The prisoners' defence is generally that the quarrel was a real one, and the prisoner Bheema states that the bag of rupees found in his house belonged to, and was put there by Bala (prisoner No. 3), which Bala confirms in his statement.

Prisoner Doorgawa (No. 8), the wife of prisoner Bheema, stated before the Police Amuldar that she did not know whose the rupees were; but before the Assistant Magistrate she said she knew that they belonged to prisoner Bala, but did not know when he put them in her house.

The other prisoners say they know nothing of these rupees.

It appears to the Session Judge, that there is no reason to doubt the truth of the complainant's story. It is shown that he borrowed Rs. 150 the day before the robbery; that he made a complaint about the robbery, and stated the amount of money and ornaments he had lost, on the very evening of the day it occurred; that he pointed out the persons concerned the next day again in Boodehal; that Rs. 150 were found secreted in the house of the prisoner Bheema, in a bag which it is shown belonged to him (the complainant); and finally, the prisoner Bala, to whom this money is said to belong, has given no account of how he became possessed of so large a sum—unless the Patel's evidence, that these Wudurs are better off than he is, can be so considered.

Moreover, the story they have got up as to this quarrel appears to the Session Judge extremely improbable, as it

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could hardly have been necessary to call in a Police Patel and Koolkurnee, and write a regular razeenama about so trifling a sum as Rs. 2, and the Session Judge cannot but think with the Assistant Magistrate, that there is some suspicion of connivance on the part of these village Authorities with the robbers, since it is shown the matter was not reported to the Police Amuldar, as it should have been; and it is also singular that neither the Police Patel, the Koolkurnee, nor the Shetsundee, who called them to the Chowree about this razeenama, should have been present in the village when the Police Amuldar came there to search it; and, after what had occurred the day before, it looks very much as if their absence had been intentional, and certainly, therefore, strengthens the suspicion against them.

The Session Judge therefore considers there is sufficient evidence to warrant the conviction of prisoners Bheema, Balya, Bala, Hutela, Hunma, and Doorgawa, of gang robbery with force, by day; in having, on Saturday the 14th October 1854, (corresponding with Ashwin Wud 8th, Shuké 1776,) in the limits of the village of Boodehal, in the Badamee Tolooka, in the Belgaum Division of the Dharwar Zillah, forcibly robbed one Swamrow Venkutesh of property, consisting of Rs. 165 in cash, and of ornaments to the value of Rs. 36, in all Rs. 201.

And after considering the nature of the crime committed, (and that no weapon of any kind appears to have been used, or even worn at the time of the robbery by the prisoners,) and the punishment assigned thereto in Regulation XIV. Section XXXVII. Clause 1st of A. D. 1827, the following sentence is passed:—

That you, Bheema, Balya, Bala, Hutela, and Hunma, be imprisoned and kept to hard labour, for three (3) years; and that you, Doorgawa, be also imprisoned and kept to hard labour, for eighteen (18) months.

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The prisoners Fukeera and Akmunchee to be acquitted, as there is not sufficient evidence against them.

Resolution of the Sudder Foujdaree Adawlut.—The petitions of the prisoners are rejected.

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KHANDEISH.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 12 of the Calendar of the Khandeish Sessions Court of 1855. Committed by Rao Bahadoor RAM NAID, Deputy Magistrate, on the 31st January 1855. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 2nd February 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Wilful Destruction of Reaped Crops by Fire.

Prisoner.—Heerajee wulud Mahoojee, Kolee, aged 23.

Charge.—Wilful destruction of reaped crops by fire; in having, at or about 9 o'clock on the night of Friday the 22nd December 1854, (corresponding with Poush Shood 3rd, Shuké 1776,) within the limits of Sonwuree, Péta Veerdale, Talooka Nundoorbar, Zillah Khandeish, wilfully and wrongfully set fire to a stack of 'bajree,' belonging to one Rama wulud Nuthoo Kolee, and caused him a loss of about Rs. 14, thereby rendering himself amenable to the provisions of Regulation XIV. of 1827, Section XLII. Clause 1st.

The charge having been read and explained to the prisoner, he pleads not guilty.

Finding and Sentence by the Session Judge.—The Court, having considered both the evidence for the prosecution, and on recording the evidence of those whom the prisoner wished to call in his defence, and becoming aware that each of them whose depositions have been read before the Court, and entered Nos. 7, 8, 9, and 10, have nothing to state exculpatory of the offence with which the prisoner has been charged, is of opinion, that on the very direct evidence of Abhimun Bheel (witness No. 2), and Janjee

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Wilful Destruction of Reaped Crops by Fire.

Koonbee (witness No. 3), corroborated by the evidence Nos. 4 and 5, the prisoner Heerajee wulud Mahoojee is convicted of wilful destruction of property by fire; in having, on the evening of Friday the 22nd December 1854, (corresponding with Poush Shood 3rd, Shuké 1776,) within the limits of Sonwuree, Péta Veerdale, Talooka Nundoorbar, Zillah Khandeish, wilfully and wrongfully set fire to a stack of bajree, belonging to one Rama wulud Nuthoo, Koolee, and caused him a loss of about Rs. 12.

Read and recorded a warrant issued by the First Assistant Magistrate of Khandeish, on the 16th March 1850, sentencing the prisoner to undergo six months' imprisonment with hard labour, for attempt to commit robbery by night, without force.

The prisoner admits the above warrant.

The Court, having before it another conviction and sentence against this prisoner, and bearing in mind the style of defence, and the evidence given by those whom the prisoner had called before the District Police Officer, proceeds to pass the following sentence:—

That you, Heerajee wulud Mahoojee, do undergo two (2) years' imprisonment, with hard labour, agreeably to the provisions of Regulation XIV. of 1827, Section XLII. Clause 1st.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Session Judge is to be told, that the witnesses for the defence not being present, he ought not to have recorded their examination before the Police; but inasmuch as they had disproved the *alibi* set up by the prisoner, they should have been cited for the prosecution, as the Session Judge will find laid down in Bellasis' Reports, page 178.

The Deputy Magistrate is to be told, that the Court do not concur in his strictures on the proceedings of the

Mahalkuree, as far as they refer to his having summoned the Police Patel, whose evidence is always valuable in criminal trials.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

KHANDEISH.

[Case No. 3 of the Calendar of the Khandeish Sessions Court for 1855. Committed by Rao Bahadoor RAM NAID, Deputy Magistrate, on the 30th December 1854. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 13th January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Gang Robbery by Night, with Force.

Prisoners.—No. 1, Roopa wulud Mohila, Bheel, aged 30.
2, Chotia wulud Katea, Bheel, aged 45.
3, Mangria wulud Chambharia, Bheel, aged 35.
4, Chotia wulud Rudva, Bheel, aged 25.
5, Bhania wulud Ookhria, Bheel, aged 16.

Charge.—Gang robbery by night, with force; in having, on or about the night of Monday the 4th December 1854, (corresponding with Margsheersh Shood 15th, Shuké 1776,) at the village of Jhoomkuttee, Péta Koonkurmoonda, Talooka Sooltanpoor, Zillah Khandeish, armed with swords and clubs, attacked the huts of Bondia wulud Musnia, Bheel, and Hanjeah wulud Sonjeah, Bheel, forcibly entered and plundered them of property, consisting of silver ornaments, metal vessels, and clothes, valued at Rs. 12-7-6, and in having carried away one Gavee, the wife of Bondia, and one Kagree, the wife of Hanjeah, thereby rendering themselves amenable to the provisions of Regulation XIV. of 1827, Section XXXVI. Clauses 1st and 3rd.

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The prisoners, on hearing the charge read and explained to them, plead all not guilty.

Finding and Sentence by the Session Judge.—The Court, after maturely considering the facts elicited by this trial, is of opinion that the offence, as stated in the indictment, with the exception of the date, which is not determined by evidence before this Court, is proved by the statements of the witnesses, whose evidence is marked Nos. 1, 2, 3, 4, 5, and the production of the articles before the Court, proved by the evidence No. 6 to have been found, part in the house of prisoner No. 5 (Bhania), and part in the house of prisoner No. 2 (Chotia), and recognized by the prosecutor in his statement No. 1, corroborated as this evidence is by the clear and simple statements of the whole of the prisoners, who appear, in accordance with, as they state (but for which they have no documentary evidence to adduce), orders from Baroda, and the direct injunctions of the Wussavah or presiding authority of Sagbareh, to have proceeded by night to Jhoomkuttee, a village in the Honorable Company's dominions, for the illegal purpose of securing the person of one Bondia, or recovering from him two bullocks, part of a fine levied on him for robbery by the Wussavah, and not finding their man, they robbed his house, and carried off his wife and sister-in-law, releasing the former on payment by her brother of one bullock, and detaining the latter, with all the small effects, in all value only Rs. 12-7-6, until demanded by the Police District Officers. The offence is much aggravated by the abduction of the persons; and although this Court has no authority from Government for the trial of these offenders, yet, on the supposition that the Magistrate received the usual authority to bring these five men, residents of His Highness the Raja of Rajpeempla's dominions, to trial, the Court proceeds to record an opinion, that all the prisoners are convicted, on the

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evidence, and their own confessions, of gang robbery by night, with force (with the exception of the date specified, to which there has been no evidence given before this Court); in having, in the month of December 1854, (corresponding with Margsheersh, Shuké 1776,) at the village of Jhoomkuttee, Péta Koonkurmoonda, Talooka Sooltanpoor, Zillah Khandeish, armed with swords and clubs, attacked the huts of Bondia wulud Musnia, and Hanjeah wulud Sonjeah, forcibly entered and plundered them of property, consisting of silver ornaments, metal vessels, and clothes, valued at Rs. 12-7-6, and carried off one Gavee, wife of Bondia, and Kagree, wife of Hanjeah; and the Court proceeds to pass the following sentence:—

That you, prisoners Roopa wulud Mohila (No. 1), Chotia wulud Katea (No. 2), Mangria wulud Chambharia (No. 3), and Chotia wulud Rudva (No. 4), being convicted on the evidence, and on your own confessions, of gang robbery by night, with force, do each of you undergo five (5) years' imprisonment, with hard labour.

And that you, Bhania wulud Ookhria (prisoner No. 5), do undergo (1) one year's imprisonment, with hard labour, under the provisions of Regulation XIV. of 1827, Section XXXVII. Clause 1st.

Resolution of the Sudder Foujdaree Adawlut.—The Court mitigate the sentence on the prisoners Roopa (No. 1), Chotia (No. 2), Mangria (No. 3), and Chotia (No. 4), to three years' imprisonment, with hard labour, and on Bhania (No. 5) to three months' imprisonment, with hard labour.

The Session Judge is to be reminded, that the offence having been committed in the Magistrate's jurisdiction, the authority of Government was not required to bring the prisoners to trial; but that, as he thought differently, he should have satisfied himself on the point before proceeding to trial. His attention is to be directed to Act VII. of 1854.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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AHMEDABAD.

[Petition of Bhowanee Shunker Doolubram to the Sudder Foujdaree Adawlut, praying the remission of a fine of Rs. 50, imposed upon him by Mr. J. W. HADOW, Magistrate of Ahmedabad, for misconduct. Referred to the Magistrate for Report, on the 4th October 1854.]

Obstructing Justice in the presence of a Magistrate.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In reply to the Court's Precept No. 727, dated 4th October last, the Magistrate has the honour to report upon the matter set forth in the petition of Bhowanee Shunker Doolubram.

The petitioner was an important witness in a case in which, at his instigation, a woman of the town had presented a false petition, accusing a Karbaree of the Sanund Thakore of having taken away her child, and given it to the late wife of the Thakore, who had passed it off as a son born to her; and it was in the course of the investigation into this accusation, that petitioner conducted himself in a very improper manner, and instead of replying to the questions put to him, persisted in giving evasive answers. He was warned against conducting himself in this way while under examination as a witness, but this producing no effect, he was fined for contempt to the amount of Rs. 60, under the provisions of Act XXX. of 1841.

He was not fined, as represented, for presenting a petition, such not being the practice in the Magistrate's Office, where petitions are always listened to, and properly disposed of.

The Magistrate begs to report, for the information of the Judges, that petitioner belongs to a sect well known at, and about Ahmedabad, who, having no regular occupation, or respectable way of earning a livelihood, make it a practice to mix themselves up in other persons'

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affairs, in which they have no concern whatever, to the great interruption and inconvenience of public business; and, being unprincipled and reckless in their avocations, resort to any expedients that occur to them as most likely to serve their purpose, which is that of obtaining money. One of the most common, and, it is to be feared not an unsuccessful one, of these expedients, is that of instigating persons to bring false accusations, and hunting up witnesses to come forward and swear to the truth of all that is set forth in such petitions.

In the quarrels fomented by certain parties connected with the Sanund Durbar, between the Thakore of that place, then residing at Kote, and his wives, the circumstances relating to which may be in the recollection of the Judges, petitioner, pursuing his avocation, enlisted himself on the side of those who had formed a faction against the elder wife of the Thakore, and the old Karbaree, some of whom had been committed by the Magistrate on a charge of conspiracy.

One of the objects of this conspiracy, it will be in the recollection of the Court, was to compel the Thakore to deprive his eldest wife of all control and management of the Durbar affairs; and in consequence of the treatment she received, the lady left Kote, and went to Sanund, where she remained for a short time, and then, as the time of her confinement was at hand, she left the Thakore's house at Sanund, and went to her father's at Wasna, near Sadra, in the Mahee Kaunta. There it was announced that she had in due time given birth to a son, but the Thakore denied the paternity of the child, and called for an inquiry. The investigation was conducted by the Acting Political Agent, and the result reported to Government by the Magistrate. It was unsatisfactory, as the Political Agent was of opinion that those to whom the examination had been entrusted had been imposed upon; that the woman examined,

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instead of being the Thakore's wife, was a slave girl, who *had* had a child, and had been surreptitiously introduced to represent the lady.

Be this as it may, the lady, and her father, after the examination, complained of the way in which it had been conducted, and of the treatment she had received, which, if true, would, from its description, have been sufficient to have endangered her life. As it is, there is no doubt that the lady was very ill from the time the examination took place up to the time of her death, which took place some months since, at her father's house at Wasna.

After the examination, a woman presented a petition to Captain Agar, late Superintendent of Police, in which she accused the Karbaree of the Thakore of having deprived her of her child, and given it to the Thakore's wife, who was passing it off as a child born to herself. The story she told was, that being unable to nurse the child, she had entrusted it for that purpose to the sister of the Karbaree, who, during her absence from Ahmedabad, had given it to the Thakore's wife.

This woman was proved afterwards to be a common woman of the town, inhabiting the most disreputable quarter in the city of Ahmedabad. It was here that petitioner went in quest of some woman, and having, as it was afterwards established, received money from the Thakore, or some of his people, while at Cambay, brought from thence the woman who made the petition before the late Superintendent of Police. The matter was subsequently thoroughly investigated by the Magistrate, and from what was elicited, there was no room left for doubt that the story of the woman was totally false from beginning to end, and that petitioner, and no one else, was the person who had instigated her to bring the accusation against the Karbaree. The parties concerned in this affair have been since charged with conspiracy,

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and if sufficient proof can be obtained, they will be committed on the charge.

The Magistrate begs to append, for the information of the Judges, extract paragraphs 23 to 30 of a letter addressed by him to the Acting Secretary to Government, Judicial Department, dated 23rd January 1854, relative to the inquiry into the complaint brought by the woman above referred to, which will throw some light on the previous character of the petitioner in connection with the disputes between the Sanund Thakore, his wives, and his Karbarees.

The petition is herewith returned, as requested.

Extract Paragraphs 23 *to* 30 *of a Letter addressed to the Acting Secretary to Government in the Judicial Department, No.* 85, *dated* 23*rd January* 1854.—The Superintendent states, that while at Ahmedabad, information was laid before him by a woman, named Amba, that her son had been taken away by the Thakore's dismissed Karbaree, and his sister, and sold to Vuktoba; that her statement had been corroborated by *her mother*, and *other witnesses*, and that copies of these depositions had been forwarded on the 7th instant.

The copies of the depositions, if forwarded, *have not been received at this Office.* I have applied to Captain Agar for the depositions more than once, being anxious to give their substance in this letter, which I have purposely kept back, in order that the result of the inquiry into the additional charge against the lady Vuktoba, *of having received a stolen child*, might be communicated, at the same time that I reported the result of the examination at Wasna, conducted under the directions of Major Trevelyan.

Captain Agar considers that the inquiry made by him into the complaint of the woman Amba only bears upon the charge brought by the Thakore against his wife *indirectly.* In this view, I am unable to concur: the

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knowledge of such a statement having been made, and supported by evidence, at the time that Major Trevelyan was on the point of commencing the inquiry at Wasna, in compliance with the request contained in my letter of the 17th ultimo, might have proved of the greatest use, had it been communicated at the time either to that Officer or to myself.

If the woman's story were true, here was a clue at once to the fraud that had been practised; and the knowledge of the fact of the real mother being forthcoming would have materially assisted Major Trevelyan and myself in bringing the investigation to a more satisfactory conclusion. If further inquiry had been considered necessary, it might have been made by Major Trevelyan, or by myself.

I learn, from the copy of the deposition of the complainant, that she is not a married woman. She describes herself a Mahratun by caste, and as being kept by a Mussulman. It further appears, that she resides in one of the most disreputable quarters of the city of Ahmedabad; and I have no doubt that it will turn out, on further inquiry, that she belongs to the class of females from which the quarter referred to chiefly derives its notoriety.

From a petition I received the other day, I strongly suspect that the person who was set to work to hunt up this woman is also a man of some notoriety, and will turn out to be one of the set denounced by the Thakore himself in a letter to the address of the Acting Magistrate, dated 6th December 1851.

On this occasion, the Thakore complained of his Durbar having been taken possession of—the old story—by a number of Sepahees and Rajpoot dependents, engaged by a set of conspirators. The ring-leaders were named, and one of these was *Bhowanee Shunker*—the same individual, I believe, who has been chiefly instrumental in

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bringing forward the woman Amba. The Thakore had particularly specified him and two others as the chief conspirators; the object of the conspiracy being, as set forth in his letter, to compel him to dismiss his Karbaree, by name Bhaeechund (the father of the Karbaree the Thakore is now stated to have lately dismissed), for which purpose they had taken possession of his Durbar, and placed a guard of 10 or 12 men over him. Further, that they would not allow his Karbaree to go near him—that the business of his Talooka was at a stand-still in consequence; that they would not allow him to proceed even to Kote, and that when he had gone to the Mamlutdar on business, and his Karbaree was sent for, the men on guard had prevented him going even to the Kutcherry.

The same thing occurred in August last, the object of the conspirators on that occasion being not only to compel the Thakore to get rid of his Karbaree Goolabchund, but to prevent the senior wife Vuktoba from taking part in the administration of the affairs of state. My proceedings on this occasion were reported in my reply No. 521, dated 10th ultimo, to the Thakore's petitions on the subject, and to this report I would beg respectfully to refer His Lordship in Council.

Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion, that the Magistrate's report and proceedings do not show that the petitioner made himself amenable to the penalties of Act XXX. of 1841.

The Sudder Foujdaree Adawlut's view of the Act is to be found in Circular Order No. 371, to which the Magistrate is to be referred.

The fine is to be restored.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SHOLAPORE.

[Case No. 26 of the Criminal Return of the Magistrate of Sholapore for December 1854. Tried by Mr. W. RAYMER, Deputy Magistrate, on the 16th December 1854. Reviewed by Mr. T. C. LOUGHNAN, Magistrate. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Violation of an Order, issued by Legal Authority.

Prisoner.—Nuthmul wulud Futechund, Marwaree, aged 45.

Charge.—Violation of an order issued to him by legal authority (Regulation XII. A. D. 1827, Section XIX. Clause 6th); in that, having received a written injunction from the Deputy Magistrate of Sholapore, under date 20th February 1854, (corresponding with the 8th Magh Wud, Shuké 1775,) not to erect a permanent veranda in front of his shop in the Mungulwar Péta, in the town, Talooka, and Zillah of Sholapore, he, in contravention of such order, did erect such a veranda, subsequent to its receipt by him.

The prisoner pleads not guilty.

Finding and Sentence by the Deputy Magistrate.—Upon the grounds of the evidence, which goes to indicate that the veranda previously in front of prisoner's shop was of a temporary nature, and that the one erected by him subsequent to the receipt of the order in question by him is of permanent construction,—or, in other words, that it cannot be removed at pleasure, as the other could,—and it being further deposed that it will in certain cases obstruct the passage of carts and men with loads, and prisoner's statement also tending to show that he had infringed the order, the Deputy Magistrate, considering the offence proved, convicts the prisoner of violation of an order issued to him by legal authority, as charged; and sentences him, viz. Nuthmul wulud Futechund, to pay a fine of seven (7) rupees, or in

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default that he be confined without labour for three (3) weeks, under Clause 6th, Section XIX. Regulation XII. A. D. 1827.

Reviewed by the Magistrate.—Prisoner is accused, under Regulation XII. Section XIX.: Act XXI. of 1841 would have been still more applicable. The only doubt the Magistrate entertains is in regard to the reading of Clause 6th, Section XIX., which requires that a copy of the injunction be sent to the Sudder Foujdaree Adawlut. Whether this applies only to the proclamation of the injunction when made to the public, or a particular class of people, or to injunctions to those individual cases as well, does not seem clear. In the Mahratta, the former meaning is clearly given. The Magistrate is inclined to believe an injunction to an individual does not require to be referred to the Court. Fine therefore confirmed, and petition of appeal rejected.

Extract of a Letter from the Sudder Foujdaree Adawlut.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to request you will have the goodness to review Case No. 26 of your Criminal Return for December last, and report as to any criminal offence having been committed by the prisoners, punishable under the Regulations quoted.

Extract of a Letter from the Magistrate to the Sudder Foujdaree Adawlut.—I have the honour to report, that previous to the receipt of your letter No. 291, dated the 8th instant, I had already reviewed Case No. 26 of the Return of December last, confirming the sentence.

The wording of Clause 6th, Section XIX. Regulation XII. of 1827, seemed to me to leave it uncertain whether the rule which requires a copy of the injunction, issued in such cases which are referred to, applies generally to all injunctions, including those issued to single individuals by name, or only to those which are notified by proclamation, for the guidance of the public generally.

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Violation of an Order, issued by Legal Authority.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be informed, that if any unlawful obstruction of a road has been committed, or public right of thoroughfare invaded, it is desirable that he should proceed under Act XXI. of 1841, which is applicable to such cases; but that the Court do not think the injunction, in the form of an answer to a petition, can be considered to have the force of the order contemplated by the Regulation under which the prisoner was punished; and further, that, whether an injunction under Section XIX. Regulation XII. of 1827 be special or general, the law requires that a copy of it should be submitted to the Sudder Foujdaree Adawlut.

The conviction is annulled, and the fine is to be restored.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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KHANDEISH.

[Case No. 54 of the Calendar of the Khandeish Sessions Court for 1854. Committed by Mr. T. WEEDING, Assistant Magistrate, on the 16th September 1854. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 18th September 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Shaoo Murd Survurkhan.]

Removing her own Pregnancy, by procuring Abortion; and Aiding in the Offence.

Prisoners.—No. 1, Ahila, widow of Rama, Wanee, aged 25.
2, Shaoo Murd Survurkhan, Musulman, aged 35.
3, Shravun wulud Munsaram, Wanee, aged 30.

Charge.—Against prisoner No. 1, removing her own pregnancy, by procuring abortion; in having, on the night of Sunday the 20th August 1854, (corresponding with Shrawun Wud 12th, Shuké 1776,) at Erundole,

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Talooka Erundole, Zillah Khandeish, by eating certain preparations, procured from prisoner No. 2 (Shaoo), caused herself to abort; thereby rendering herself amenable to the provisions of Regulation XIV. of 1827, Section XXVIII.

And against prisoners Nos. 2 and 3, aiding in the above offence; in having, at the above-mentioned date and place, given certain preparations to prisoner No. 1, to procure abortion. (Regulation XIV. of 1827, Section I. Clause 5th).

The charges having been read and explained to the prisoners, they all three plead not guilty.

Finding and Sentence by the Session Judge.—The Court, after considering the evidence adduced for the prosecution, and the confessions of the prisoners, denied by their pleading, and denied in the cases of prisoners Nos. 1 and 2 before this Court, but confirmed before the Assistant Magistrate, and the fact that such confessions on the part of each of the three prisoners were made of their own free will, and without compulsion, on 21st August 1854, being confirmed by the evidence of witnesses Nos. 4, 6, and 2, corroborating the fact detailed by the evidence Nos. 2 and 3, that they saw the child, which was still-born, and which appeared to be of six months' gestation, and from the evidence being corroborated by the production of the drugs given to witness No. 4 by the prisoner No. 2, and before the Court, is of opinion that the prisoners Ahila (No. 1), Shaoo (No. 2), and Shravun (No. 3) are all guilty of the crime of causing abortion, in the manner and time set forth in the indictment, namely, that Shravun and Ahila did apply to the prisoner No. 2 (Shaoo), as a practitioner, well known as a midwife, for medicines to remove a pregnancy, which they knew was of about six months' gestation, and that she, by her own confession, proved by evidence Nos. 4 and 6, to have been given willingly, did administer

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socotrine aloes, and a preparation of the dried fruits of the 'mowra' tree, from the effects of which Ahila (prisoner No. 1) was prematurely delivered of a child; and therefore Ahila, widow (prisoner No. 1), is guilty of removing her own pregnancy, by procuring abortion; in having, on the night of Sunday the 20th August 1854, (corresponding with Shrawun Wud 12th, Shuké 1776,) at Erundole, Zillah Khandeish, by eating certain preparations, procured from prisoner No. 2 (Shaoo), caused herself to abort; and prisoners Nos. 2 and 3 (Shaoo Murd Survurkhan, and Shravun wulud Munsaram), are guilty of aiding in the commission of the above offence; in having, at the above-mentioned date and place, given certain preparations to prisoner No. 1, to procure abortion; and the Court proceeds to pass the following sentence:—

That you, Ahila, widow of Rama (prisoner No. 1), do undergo one (1) year's imprisonment, with such labour as women do, agreeably to the provisions of Regulation XIV. of 1827, Section XXVIII.

And you, Shaoo Murd Survurkhan (prisoner No. 2), do undergo two (2) years' imprisonment, with such labour as women do.

And you, Shravun wulud Munsaram (prisoner No. 3), do undergo two (2) years' imprisonment, with hard labour, agreeably to the provisions of Regulation XIV. of 1827, Section I. Clause 5th.

Minute recorded by Mr. M. Larken.—If the accused had from the first denied the charge, instead of admitting it before the Police, and, in the case of the male prisoner, in the Sessions Court also, I should have held, that the omission to examine the Civil Surgeon as to the nature of the substances or drugs in evidence was such a grave defect that the conviction must be annulled. But the trial has come here on appeal, and, not doubting that 29½ grains of aloes would cause miscarriage, I find

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sufficient facts on record to satisfy me that the prisoners are guilty, and I would reject the petition.

Minute recorded by Mr. W. H. Harrison.—The only direct evidence against this prisoner is her confession, denied in the Sessions Court, and not proved as required by law. If it had been proved, there is not corroborative evidence to show that Ahila took any medicine from Shaoo, or that her delivery was other than a natural one. It is not suggested that the child produced was under six months' gestation; and from the vague testimony offered on this head, I can scarcely conclude that it was not more. It was therefore late to procure an abortion to hide Ahila's shame, and I would acquit all the prisoners.

The Session Judge should not have recorded the prisoners' confessions before they were proved.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

Minute recorded by Mr. A. Remington.—The substance of the crime charged against Ahila (prisoner No. 1) is the removal of pregnancy, by procuring abortion.

It is extremely possible that Ahila and her brother Shravun (prisoner No. 3), having committed incest, desired to conceal their shame, and did resort to Shaoo (prisoner No. 2) to obtain abortion; but there was no evidence to show that the preparations in Court were of a noxious quality, or what their nature exactly was, and consequently, the cause of miscarriage has not been put beyond doubt, as it might have been, by calling in the Civil Surgeon to depose to the drugs, and the probable result of using them.

The prisoners must, I think, be acquitted.

Final Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled, and the prisoners Ahila, Shaoo, and Shravun (Nos. 1, 2, and 3) are to be discharged.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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BELGAUM.

[Case No. 145 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. C. F. H. SHAW, Second Assistant Magistrate, on the 27th November 1854. Tried by Mr. A. W. JONES, Session Judge, on the 26th, 27th, 28th, and 30th December 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Forgery; and making Fraudulent Use of a Forged Document, knowing it to be Forged.

Prisoners.—No. 1, Moodkowa, wife of Apana, Dhungur, aged 50.

2, Soobrow Goornath, Brahmin, aged 28.

Charge.—Forgery (Regulation XIV. of 1827, Section XVII. Clause 1st); in having, on a date and in a place unknown, wilfully, and for the purpose of injuring one Raghoba, fabricated a bond, dated the 30th April 1852, at Saotgutee, Talooka Pursghur, purporting to be an engagement made by the aforesaid Raghoba, that he would pay her (Moodkowa) a certain sum of money she claimed, to ensure which one Balana was security, and to which bond the marks of Raghoba and Balana, and the signatures of Somlingapa and Sewbusapa are attached, which marks and signatures are all forgeries.

And prisoner No. 1 (Moodkowa) is further charged, under Regulation XIV. of 1827, Section XVII. Clause 2nd, with making fraudulent use of a forged document, knowing it to be forged; in that she did, on the 10th March 1853, (corresponding with Falgoon Shood 1st, Shuké 1774,) before the Moonsiff's Court in Sowndutty, and again on the 18th October 1853, (corresponding with Ashwin Wud 2nd, Shuké 1775,) before the Judge's Court in Dharwar, make use, with the intention of injuring one Raghoba, of a forged document, dated 30th April 1852, purporting to be the bond of the said Raghoba, at the time of presenting which she well knew it to be forged.

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Finding and Sentence by the Session Judge.—In this case the prisoners are charged with forgery, and prisoner Moodkowa is also charged with making fraudulent use of a forged document, knowing it to be forged; and both prisoners plead not guilty.

It appears that prisoner Moodkowa had sued one Raghoba in two different suits for Rs. 20 and Rs. 30, and was nonsuited in the Moonsiff's Court at Sowndutty, and had appealed against those decisions to the Judge; and the present charge is brought against the prisoners for forging a bond, in which Raghoba is said to have agreed to pay these two claims, on his Court expenses being allowed him.

The bond is on a stamp paper of two annas, and was sold in Dharwar, as proved by the Stamp Karkoon, on the 27th April 1852; and the bond purports to have been executed on the 30th April 1852. A man named Balana is mentioned therein as having agreed to stand security for its being carried out, and the names of Sewbusapa and Somlingapa are attached to it, as witnesses.

This bond is shown by the evidence of the Moonsiff to have been produced and filed in Original Suit 238 of 1853, which is further corroborated by the evidence of complainant Raghoba, and witness Sewbusapa.

The prisoners maintain that this bond is a true one, prisoner Moodkowa stating it was passed in Balana's house, and written by Soobrow; and prisoner Soobrow allowing that he wrote it, and stating that he did so, at Raghoba's desire, in Balana's house.

It appears, however, that Raghoba positively denies having ever executed such a bond; that Balana denies ever having stood security on it; and the two witnesses, Sewbusapa and Somlingapa, also deny having attested it. But it also appears, and it is proved by witness No. 9, that the appeals which this bond of the 30th April purports to settle were decided by the Judge in Dharwar, on

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the 24th April 1852, that is three days before even the stamp was bought for the bond; and as the Stamp Karkoon sits in the Adawlut for the sale of stamps, it is inconceivable that Raghoba should have gone to buy a stamp for such a purpose, without inquiring of his Vakeel into the fate of the appeals he was opposing.

And as the Session Judge can see no reason to doubt the evidence of the witnesses Nos. 2, 4, 5, and 6, and the prisoners have not attempted to prove the bond in any other way, the Session Judge considers that there is no doubt that it was forged by the prisoners in combination, with a view to injure Raghoba. As, however, Soobrow is the only one who wrote it, the Session Judge decides to convict him alone of forgery.

The Session Judge considers this, therefore, as conclusive against the prisoners, and the prisoner Soobrow is therefore convicted of forgery; in having, on a date and in a place unknown, wilfully, and for the purpose of injuring one Raghoba, fabricated a bond, dated the 30th April 1852, at Saotgutee, Talooka Pursghur, purporting to be an engagement, made by the aforesaid Raghoba, that he would pay her (Moodkowa) a certain sum of money she claimed, to ensure which one Balana was security, and to which bond the marks of Raghoba and Balana, and the signatures of Somlingapa and Sewbusapa are attached, which marks and signatures are all forgeries.

And the prisoner Moodkowa is convicted of making fraudulent use of a forged document, knowing it to be forged; in that she did, on the 10th March 1853, (corresponding with Falgoon Shood 1st, Shuké 1774,) before the Moonsiff's Court in Sowndutty, and again on the 18th October 1853, (corresponding with Ashwin Wud 2nd, Shuké 1775,) before the Judge's Court in Dharwar, make use, with the intention of injuring one Raghoba, of a forged document, dated 30th April 1852, purporting to be the bond of the said Raghoba,

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at the time of presenting which she well knew it to be forged.

The Session Judge now proceeds to take evidence as to the former conviction of prisoner Soobrow.

Kristna Row Nursim, resident in Dharwar, in the Dharwar Talooka of the Dharwar Division and Zillah, is called into Court, and, being duly admonished, deposes as follows, on solemn affirmation :—

" Is thirty-seven years of age, by religion a Hindoo, by caste a Brahmin, employment Karkoon.

" I am a Karkoon of the Duftur Kutcherry in the Adawlut, and the warrants of prisoners discharged after completion of their sentence come to me to file. I now hand in a warrant for sentence of prisoner Soobrow Goornath, of one year's imprisonment with hard labour, for perjury, dated 23rd February 1853. He was discharged from Jail on 22nd February 1854."

The prisoner has no question to ask, and witness withdraws.

Ramrow Jeewajee, resident in Dharwar, in the Dharwar Talooka of the Dharwar Division and Zillah, is called into Court, and being duly admonished, deposes as follows, on solemn affirmation :—

" Is thirty-nine years of age, by religion a Hindoo, by caste a Brahmin, employment Karkoon.

" I am the Foujdaree Karkoon in the Nazir's department, and it is my business to write down the descriptions of all prisoners entering Jail, and I do so before they go in. I know prisoner No. 2 (Soobrow Goornath), before the Court. He was in Jail for perjury, and was sentenced by the Session Judge. I forget the exact date, but it was early in 1853. When the sentence was carried out he was discharged. I am certain the prisoner is the man."

The prisoner has no questions to ask, and witness withdraws.

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Recorded, a warrant signed by A. Remington, Esq., Session Judge of Dharwar, ordering the Nazir to carry out a sentence of one year's imprisonment, with hard labour, awarded against Soobrow Goornath, for perjury.

And having considered the nature of the crimes committed (as well as the previous conviction, proved and recorded against the prisoner Soobrow), and the punishment assigned thereto in Regulation XIV. Section XVII. Clauses 1st and 2nd of 1827, the following sentence is passed:—

That you, Moodkowa, wife of Apana, be imprisoned and kept to hard labour, for eighteen (18) months, and then pay a fine of one hundred (100) rupees, or be imprisoned and kept to hard labour for a further period of six (6) months; and that you, Soobrow Goornath, be imprisoned and kept to hard labour, for two (2) years, and pay a fine of one hundred (100) rupees, or be imprisoned for a further period of one (1) year, also with hard labour.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

Evidence should have been taken to the hand-writing of the bond, and the proof should not have been left to the chance of the prisoner's admitting his hand-writing.

The statements of the prisoners should have been proved before they were read and recorded against them.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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BROACH.

[Petition of Jaita Wusta, and another, to the Sudder Foujdaree Adawlut, praying the amendment of an order of the Acting Second Assistant Magistrate of Broach, Mr. L. R. ASHBURNER, removing the Petitioner's Snuff Shop on the mere representation of the neighbours, may be annulled. Referred to the Magistrate for report, on the 6th December 1854.]

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BROACH.

Local Nuisance.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—With reference to the within Precept, the Magistrate has the honour to state, that the petitioners are manufacturers of snuff, and as the shop in which they were in the habit of making it is in a house close to a public thoroughfare, it was reported by the Foujdar, on a petition being made on the subject to the Acting Second Assistant Magistrate, that inconvenience was occasioned from the effects of the tobacco dust, not only to some of the neighbours of the petitioners, but also to persons passing along the streets; and, moreover, that no persons had ever been in the habit of making snuff close to a public street before.

On the receipt of the above report, a notice was served on the parties by the Acting Second Assistant Magistrate, as directed by Act XXI. of 1841; and as no appeal was made to the Magistrate until after the prescribed period had elapsed, he did not think it necessary to interfere in the matter.

Since the receipt of the Court's Precept, the Magistrate has visited the spot himself, but as he could not judge of the extent to which a nuisance might be occasioned unless the manufacture of the article had been actually going on, he referred the matter for report to the Police Amuldar of Broach; and as this Officer is also of opinion that inconvenience would be occasioned if the petitioners were allowed to carry on their trade in the place in question, the Magistrate is respectfully of opinion, that the order given by the Acting Second Assistant Magistrate should not be interfered with, and that the petitioners should continue to manufacture their snuff in a more retired spot, where they are in the habit of doing it at the present time.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SHOLAPORE.

[Case No. 120 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. J. F. ARMSTRONG, First Assistant Magistrate, on the 26th December 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 3rd, 4th, 5th, and 19th January, and 9th and 10th February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Robbery by Night, with Murder.

Prisoners.—No. 1, Ningnak wulud Shiwnak, Mhar, aged 30.
2, Hooseinee wulud Shida, Mhar, aged 25.
3, Tookia wulud Boodia, Mhar, aged 36.
4, Busia wulud Nursinga, Mhar, aged 30.

Charge.—Robbery by night, with murder (Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section XXVI. Clause 1st); in having, on the night of Friday the 20th October 1854, (corresponding with Shookurwar, Ashwin Wud 14th, Shuké 1776,) at a field in the limits of Boodehal, in the Indee Talooka of the Sholapore Zillah, assaulted with sticks Bajoo wulud Khundapa, aged thirty-four years, and inflicted various wounds on his head and testicles, &c. from the effects of which he then and there died; and also in having then and there stolen from his person clothes of the value of Rs. 1-4-0, or thereabouts, his property.

Finding and Sentence by the Session Judge.—The prisoners are charged with robbery by night, with murder, and plead severally not guilty.

It appears that the deceased Bajoo wulud Khundapa was watching his crop alone on the night of Friday the 20th of October last, when he was attacked by robbers, who assaulted him with cudgels, and inflicted injuries

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therewith on his head and testicles, from the effects of which he then and there died; and that they then (except his 'cholna' or drawers, which were subsequently found, with one of the cudgels, lying near the body, soaked in blood,) robbed him of all the clothes he had on, of the value of about Rs. 1-4-0, and made off.

The field cultivated by the deceased was not in the limits of his own village, Agurkheir, but of Boodehal (about 15 miles distant); and as he seems latterly to have remained day and night in the field, and to have taken his meals there, his body was not discovered until Sunday morning, when Melgeree (witness No. 21), whose niece was married to him, and who had gone to call him, and take his place for a day or two at her request, she having been confined at Agurkheir on the very night he was murdered, discovered it, and gave information to the Police Patel.

Prisoners Nos. 2, 3, and 4 (Hooseinee, Tookia, and Busia) all hold fields in the neighbourhood of that the deceased cultivated, and where his corpse was found, and the foot-marks of four men having been traced from where the body was lying into the field of one Busia Chambhar (beyond which is that of prisoner No. 2, Hooseinee), and the said Busia Chambhar having informed the Police Patel that he had not been to his field for eight days, suspicion fell upon them, and they were accordingly apprehended.

They at first denied that they were at their fields on the night of the murder, and were let off; but hearing this, a Mhar by name Mankia (witness No. 22), who had been to Indee on that date with the 'tapal,' told the Patel, that as he was returning at night, he had seen both Tookia and Busia (prisoners Nos. 3 and 4) there, and this led to their re-apprehension, and that of prisoner No. 2 (Hooseinee), and further inquiry.

Prisoners Nos. 2, 3, and 4 (Hooseinee, Tookia and

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Busia) subsequently confessed to having been parties to the robbery and murder, implicating prisoner No. 1 (Ningnak), who was accordingly arrested; and prisoner No. 2 (Hooseinee) pointed out the place where the deceased's clothes were discovered buried.

Their confessions were taken down in writing by the Police Amuldar, and admitted before the First Assistant Magistrate, but that of prisoner No. 2 (Hooseinee) is shown by the evidence of the Police Sepoy Ningoo (witness No. 10) to have been obtained from him under a promise of pardon, and cannot, consequently, be used against him.

The fact of the deceased having been cruelly murdered being sufficiently shown by the Inquest Report, and the testimony of the Police Patel and others who inspected the body, it only remains to be seen what other evidence exists against prisoner No. 2 (Hooseinee), and how far the confessions of prisoners Nos. 3 and 4 (Tookia and Busia) are corroborated by that recorded for the prosecution. (The case of prisoner No. 1, Ningnak, will be hereafter referred to.)

The Court finds, that with the exception of his confession, shown above to have been improperly obtained, no evidence which can be legally applied, or which would warrant a conviction, exists against prisoner No. 2 (Hooseinee), and he is therefore acquitted, but remanded to the Magistrate for precautionary measures, under the provisions of Section XLI. Regulation XIII. of 1827.

The confessions of prisoners Nos. 3 and 4 (Tookia and Busia) are corroborated by the evidence of the attesting witnesses Rungo Anunt and Ningapa (Nos. 17 and 18), by the injuries found on the body of the deceased, and the position in which it was discovered, with the 'cholna' or drawers soaked in blood, and a cudgel, also, with stains of blood upon it, lying near, as proved by the Inquest Report No. 5, and the deposi-

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tions of witnesses for the prosecution Nos. 3, 4, 6, 9, 15, 16, and 21; by the finding of the deceased's blanket, kerchief, waist-bandage, jacket, and body-cloth (the two latter stained with blood), buried at the spot pointed out by prisoner No. 2 (Hooseinee), as proved by the depositions of the Police Patel, and witnesses for the prosecution Nos. 9, 13, and 14, and which are proved to be his, and those he had on the evening preceding the murder, by the depositions of the witnesses Nos. 6, 7, 8, and 21; by the evidence of the witness Shivee (No. 11), who deposes that she overheard prisoners Nos. 2, 3, and 4 (Hooseinee, Tookia, and Busia) talking in the house of the latter, and say—"We have denied in our depositions, and Ningoo has gone to his village. If the matter should be stirred up tomorrow, and brought home to us, what shall we do?" By the evidence of the Mhar Mankia (witness No. 22), which proves that they were at their fields on the night of the murder; by the depositions of the Police Patel, and witnesses Nos. 15 and 16, who traced the foot-marks of four men from where the corpse was lying into the field of Busia Chambhar, which field is situated between the deceased's and that of prisoner No. 2 (Hooseinee); and finally, by their making no defence, but contenting themselves with a simple denial of their confessions.

And as they both in these confessions admit having assisted in an unlawful act, the perpetration of which was accompanied with the death of a human being, they are convicted of robbery, with murder; in having, on the night of Friday the 20th October 1854, (corresponding with Shookurwar, Ashwin Wud 14th, Shuké 1776,) been present, or near at hand, to a field in the limits of Boodehal, in the Indée Talooka of the Sholapore Zillah, when Bajoo wulud Khundapa, aged thirty-four years, was assaulted with sticks, and various wounds inflicted on his head and testicles, &c. from the effects of which

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he then and there died, and also when clothes were stolen from his person, of the value of Rs. 1-4-0, or thereabouts; thereby countenancing robbery, and assisting in an unlawful act, which caused his death.

There is no evidence against prisoner No. 1 (Ningnak), and he must therefore be acquitted; but the Court deems it right, under the circumstances of the case, to remand him also to the Magistrate for precautionary measures, under the provisions of Section XLI. Regulation XIII. of 1827.

After maturely considering the nature of the offences committed, and the punishment provided for the same by Sections XXXVII. Clause 3rd, and XXVI. Clause 4th, of Regulation XIV. of 1827, the following sentence is passed:—

That you Tookia wulud Boodia, and Busia wulud Nursinga, be transported beyond seas, for the term of your natural lives. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

* * * * * *

The Session Judge is constrained to record his conviction, that had the preliminary inquiry in this case been more carefully conducted, not only might evidence regarding the cudgel have been obtained, but sufficient proof to secure the conviction of both prisoners Nos. 1 and 2 (Ningnak and Hooseinee).

The acquittal of prisoner No. 2 (Hooseinee) is due principally to the unauthorised promise of pardon made to him by the Police Sepoy Ningoo wulud Rachupa, which was brought to the Magistrate's notice by an extract from the Court's proceedings of the 4th ultimo.

The Session Judge's experience has taught him, that when a case has once come before the Sessions Court, it is next to impossible to obtain evidence which has been overlooked when it was under preparation, and the Police Amuldars and committing Authorities should

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therefore be informed, that their responsibility does not end with merely handing it on to superior Authority, or committing it for trial at the Sessions.

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Resolution of the Sudder Foujdaree Adawlut.—The Court do not think that the evidence relied upon by the Session Judge, to corroborate the retracted confessions of the prisoners, is sufficient for their conviction. There is nothing in the confessions which the facts already ascertained by the Police might not have supplied.

The prisoners are acquitted, and are to be discharged.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 106 of the Calendar of the Ahmedadad Sessions Court for 1854. Committed by Mr. W. A. RITCHIE, Acting First Assistant Magistrate, on the 9th October 1854. Tried by Mr. H. NEWTON, Acting Session Judge, on the 21st and 22nd February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Robbery, attended with Murder; and Concealment of Murder after the fact.

Prisoner.—Prem, daughter of Nuthoo, (unmarried,) Khowas, aged 35.

Charge.—Robbery, attended with murder (Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section XXVI. Clause 1st); in having, on July 6th, 1854, (corresponding with Ashad Wud 11th, Sumvut 1910,) within the limits of Bhownuggur, Zillah Ahmedabad, purposely, and without justifiable or extenuating cause, deprived of life one Huka Bhugoo, a boy aged about nine years, by throwing him into a well, containing water, in which he was drowned, prisoner having previously taken from the person of the said Huka Bhugoo a silver necklace, valued at Rs. 10.

Also, under Regulation XIV. of 1827, Section XXVI. Clause 1st, and Section I. Clause 5th, with concealment

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of murder after the fact; in having, at the time and place abovementioned, been cognizant of the murder of the boy Huka aforesaid, and given no information of the circumstance to the Police.

On these charges being stated to the prisoner, she pleads not guilty to each.

Finding and Sentence by the Acting Session Judge.— The prisoner is charged with robbery and murder; in having taken a necklace from the person of a boy named Huka, and then thrown him into a well, in which he was drowned. The deposition of the boy's father (witness No. 5) shows that Huka, at about midday on July 6th last, ran after the prisoner to ask her for some money due from her, and that the boy was never seen alive by the father afterwards. The direction in which the prisoner and Huka went away together was towards the gate leading to Gogo. The next point in evidence is supplied by the deposition of Rutun (witness No. 7), who states, that having gone to dig for small stones outside the city of Bhownuggur, she at about half past three on the same evening, on her return, met the prisoner and the boy Huka going together along the Gogo road. The next witness, Haoo (No. 8), says that about the same time (half past three) he was passing a large well called the Baisa Tulao, a little further from Bhownuggur, along the Gogo road, when he saw the prisoner and the boy Huka going down to the water. The father of the boy, becoming alarmed at Huka's absence, began to search for him, and while so engaged, met the prisoner at about sunset, coming along the same road leading from Gogo, and from the well in question. He then questioned her about the boy, and she admitted that he had been with her, but said that he had remained behind. The Police Sepoy (witness No. 9) proves that prisoner was apprehended at about 7 o'clock on the same evening, and that Huka's father had previously

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given information that he had last seen his son in her company.

The prisoner an hour or two after her apprehension on the same day (the 6th), is shown by the deposition No. 9 to have made the statement bearing that date, and recorded No. 12, to the effect that the boy Huka had gone with her through the Gogo gate, when she went to wash clothes; that she pushed him away, and he went crying homeward, when a person, whose name she did not know, but finds to be Jafur Nourung, called the boy, and took him away. She denied all knowledge of what occurred afterwards.

Next morning (July 7th) the body was discovered in a well about half a mile outside Bhownuggnr, on the Gogo road. It is stated by the father, that when the boy had ran after the prisoner on the preceding day, he had a silver necklace on his neck. When subsequently seen in prisoner's company, by witness Rutun, the same necklace was noticed, and again by witness Haoo, when he saw the two going down to the well. When, however, the body was taken out of the water, the necklace was missing, and has not since been discovered.

The body having been discovered, the prisoner on the same day adds to her previous story, and says that she saw Jafur Nourung gag the boy Huka; that she followed to see what would be done, when Jafur came up to her, told her to go away, and threatened to kill her if she told any one; that she went back a little, and then again followed unperceived, until she saw Jafur take the boy into the well called the Baisa Tulao, or Jhaleea Kooa, and that after remaining below about half a 'ghuree,' Jafur came up alone, with a silver necklace in his hand; that she alone saw all this, and mentioned it to no one, through fear lest Jafur might kill her, as he had threatened.

These last statements are proved by the deponents

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Nos. 10 and 11 to have been reiterated by the prisoner before the Foujdar of Bhownuggur, and the Assistant Magistrate. With the corroboratory evidence recorded, they would conclusively establish the charge of concealment after the fact against the prisoner; but the Court is of opinion that the graver charge is also substantiated. These proved statements are inconsistent with the supposition that the prisoner merely saw, and did not commit, the murder, since the same fear which kept her, as she states, from divulging what she saw, would have kept her from following the man who had threatened to kill her; and it is incredible that, under such circumstances, she could have watched all that passed from so near a locality as to be able to see the person whom she charges come up from the well with a silver necklace in his hand. Jafur of course denies all knowledge of the murder, and he denies it with a truthfulness of demeanour to which the Court attaches much weight. He has also brought forward a witness (No. 14) to prove that he was engaged at her house till a late hour on the day of the murder; and although after such a lapse of time the Court cannot lay much stress on the deposition of this woman (not a very intelligent one), respecting a particular day, the evidence recorded leaves no ground for a suspicion against Jafur. The prisoner's statements are, as above noticed, inconsistent with themselves. Jafur was not seen near the place where the murder was committed, while the prisoner was seen there, and admitted having been there; and the Foujdar of Bhownuggur was unable to obtain any evidence against Jafur at a time when it would have been much more easily attainable, had there been any.

The evidence in the case has suffered considerably from the length of time—more than seven months—which has elapsed since the crime. Witnesses cannot recollect minor incidents after such an interval; and to

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this the Court attributes the discrepancies observable in some of the depositions. Deponent No. 5, as already noticed, gave the Court, from his demeanour, much confidence in his truthfulness, though he appeared rather deficient in intelligence. He denies having received information from the deponent No. 8, while the latter deposes, and probably with truth, that he gave it. The material witness Rutun (No. 7) states that she, on the day of the murder, told Phool, the mother of the murdered boy, what she had seen; and Phool admits this. Prisoner has not suggested any reason why either the father of the boy or this witness (Rutun) should bring a false charge against her, and the motive which she has alleged against the witness Haoo is proved, by the depositions Nos. 15 and 16, to have had no existence. The Court notices that Haoo and Rutun both mentioned the same hour (3 or 3½ P. M.) in their first depositions.

The prisoner's Vakeel has suggested that the truth of the deposition No. 8 should be further tested by the examination of Kurshun, the person from whom that deponent mentions that he obtained fire to light his pipe on the day in question; but the Court remarks that Haoo's deposition would not be affected if, after the lapse of nearly eight months, a man was unable to recollect such a trivial incident as that spoken of. It has, therefore, not been judged right to defer the case for the attendance of Kurshun from Bhownuggur (a place 130 miles distant), especially as the result would probably be a postponement for several weeks, or perhaps months, longer, the Acting Session Judge having been ordered to another duty.

On these grounds, the Court convicts the prisoner of robbery and murder; in having, on July 6th, 1854, (corresponding with Ashad Wud 11th, Sumvut 1910,) within the limits of Bhownuggur, Zillah Ahmedabad,

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purposely, and without justifiable or extenuating cause, deprived of life one Huka Bhugoo, a boy aged about nine years, by throwing him into a well containing water, in which he was drowned, prisoner having previously taken from the person of the said Huka Bhugoo a silver necklace, valued at Rs. 10.

There being no extenuating circumstances in the case, the Court passes the following sentence, subject to the confirmation of the Sudder Foujdaree Adawlut :—

That you, Prem, daughter of Nuthoo Khowas, be hanged by the neck till you be dead, at the usual place of execution at Ahmedabad, under Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section XXVI. Clause 4th.

* * * * * *

The Court much regrets the great delay which has occurred in the trial of this case : it appears, however, to have been throughout unavoidable.

The attention of the First Assistant Magistrate will be called to the Sudder Foujdaree Adawlut's Circular No. 400, the provisions of which have been neglected in the present case. The Court also notices that the majority of the witnesses are not examined by the Assistant Magistrate, who merely recorded their depositions in their absence. The result of this has been, that one of the original witnesses, Laroo, was not forwarded with the case to the Sessions Court to give evidence in October last, and not being then bound over, as the other witnesses, to remain in attendance, has gone to Bombay.

Minute recorded by Mr. M. Larken.—There is no proof of the robbery; but I think the charge of murder may be sustained. There seems no reason to doubt that Haoo (witness No. 8) saw the prisoner and the deceased descend the steps of the well ; and the prisoner's full admissions of cognizance of the deceased's disappearance are sufficient, when combined with the rest of the

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evidence on record, to warrant the conviction. I would sentence her to transportation.

Minute recorded by Mr. W. H. Harrison.—The prisoner admits, in a statement proved to have been made before the Assistant Magistrate, that she was present at the murder of the child Iluka by drowning; and this statement is confirmed by the evidence recorded, that the child went after her as she passed his parent's house, and that he was seen with her on the road to the well, and descending to it in her company.

There is nothing to support the prisoner's assertion that the murder was committed by another party, and that she witnessed it only; and in my opinion she was rightly convicted as a principal.

Resolution of the Sudder Foujdaree Adawlut.—It is to be regretted that Khursun Malee was not among the witnesses whom the late Session Judge directed to be sent up with the case. There appears to have been no Police evidence with the case as to the discovery of the body.

The neglect of the First Assistant Magistrate, Mr. Ritchie, to examine the other witnesses, has been properly noticed by the Session Judge.

The conviction of murder is confirmed, and the prisoner is sentenced to transportation for life.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

POONA.

[Case No. 60 of the Calendar of the Poona Sessions Court for 1854, Committed by Mr. J. R. SPIERS, Deputy Magistrate, on the 30th August 1854. Tried by Mr. P. W. LEGEYT, Session Judge, assisted by Assessors, on the 1st, 2nd, 3rd, 8th, 9th, 14th, and 15th November 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners Bhaoo bin Khundapa, Jan Mahomed wulud Fukeer Mahomed, Byajee wulud Shekoobhaee, Hooseinbhaee wulud Kutalbhaee, and Baloo Meeya wulud Abdool Kadur.]

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Prisoners.—No. 1, Baloo Meeya wulud Abdool Kadur, Mussulman, aged 42.
2, Naro Bulal, Brahmin, aged 47.
3, Bhaoo bin Khundapa, Lingayeet, aged 45.
4, Hoosainbhaee wulud Kutalbhaee, Mussulman, aged 52.
5, Byajee wulud Shekoobhaee, Mussulman, aged 36.
6, Jan Mahomed wulud Fukeer Mahomed, Mussulman, aged 50.

Charge.—Conspiracy (Regulation XVII. of 1828, Section I.); in having, in the city of Poona, between 7th September 1850 and 6th December 1853, conspired and combined together to pervert the course of public justice, to injure and impoverish Pandoba bin Khundapa, Ramjee bin Kooshaba Khedkur, and Veerchund bin Ramchundra, the creditors of deceased Guzra Naikeen, and also Jysing *alias* Bapoo bin Tooljaram, her partner in business; and, in pursuance of the said combination and conspiracy, having, by means of perjury and forgery, obtained several decrees from the several Courts of Poona, to the injury of the abovementioned creditors and partners of deceased Guzra Naikeen, and to the great scandal and perversion of justice in the said Civil Courts.

The prisoners severally plead not guilty.

Finding and Sentence by the Session Judge.—A courtesan, living in the city, died, leaving a will, bequeathing the whole of her property to the prisoner No. 1 (Baloo Meeya), with whom she had cohabited for many years. In this will there was a provision that he should pay all her just debts. This will was produced the morning after her death by the prisoner before the Nazir, who put him in possession of the property, keeping a copy of the will, as usual in such cases. The creditors of deceased Guzra, finding that Baloo Meeya refused to

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pay, filed actions against him soon after her death, and it then became his object to strike upon some plan which would enable him to keep the property, and at the same time evade payment of the debt. A mortgage bond was drawn up, in the name of his friend Sydeelsha, in which, besides the property which had been devised to him, Baloo Meeya also mortgaged some articles belonging to Guzra's partner in a certain business, one Jysing Bapoo. The period fixed in the mortgage bond being found inconveniently distant, was changed from four years into four months, and Sydeelsha proceeded to file an action upon the strength of it against the prisoner No. 1 (Baloo Meeya), who at once put in an acknowledgment, and a decree was accordingly obtained within the very short period of twenty-one days. In execution of this decree, Sydeelsha then attached a house, and the articles belonging to Bapoo Jysing, who, until the attachment was served, knew nothing about the wares in his shop, from the sale of which he was to feed himself and family, having been mortgaged by a third party, and that a Civil Court had decided that it should be given up to the mortgagee. In the mean time, the creditors of Guzra Naikeen had obtained decrees against Baloo Meeya, but found it necessary to file another suit for the removal of the attachment already placed upon the house by Baloo Meeya's friend Sydeelsha. In this suit, the plaintiff (Guzra's creditor) called Baloo Meeya as a witness on his behalf, and asked him to produce the will; but although this was mentioned in the summons which was first served upon him, he appeared in Court without it. He then agreed to produce it within eight days. These eight days were drawn out to about three months. On the day on which Baloo Meeya produced the will, the Court finds Sydeelsha giving a petition, to the effect that certain witnesses should be examined at once, otherwise that the will should be put into a packet, and

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kept under seal by the Moonsiff. These witnesses were Vitoba Hagowna, the writer of the original will, and Dadabhaee, one of the attesting witnessess. The will produced by Baloo Meeya, on being read in Court, was found to contain no provision regarding the payment of the deceased's debts; on the contrary, it was there stated that she had left no debts. Vitoba Hagowna immediately denied it being genuine, and the same as that which he had written under the instructions of deceased Guzra Naikeen. Dadabhaee, on being questioned as to the contents of the will, declared that there was a provision regarding the payment of the debts of Guzra; but when the will was placed before him, it had so much the appearance of being genuine, that he thought he must be mistaken, and fearing that if he spoke differently he would not be believed, he said the will was true—which was just what was the object of the prisoners in calling upon the Moonsiff to take the evidence of these people at once, and before they could have time for any deliberation. Vitoba, the writer, having alluded in his statement to the draft of the will which he had in his possession, he was required to produce it, and it was found to contain the provision mentioned. The Moonsiff then sent for the copy which had been retained in the Nazir's Office, which was found to correspond exactly with the draft produced by Vitoba, differing in material points from the alleged original produced by Baloo Meeya. Suspicion was then raised in the mind of the Moonsiff, but unfortunately it fell upon the copy, and not upon the alleged original produced by Baloo Meeya, which, being on a stamp, it was supposed could not have been tampered with. The whole of the papers were, however, sent to the Magisterial Department for inquiry, but the Moonsiff decided in favour of Sydeelsha, nonsuiting Guzra's creditor, and confirming Baloo Meeya's mortgage. This decree was upheld in appeal by the

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Judge, and a special appeal rejected by the Sudder Adawlut finally closing the doors of redress against the creditors of Guzra, who thus found themselves saddled with all the costs, while Baloo Meeya still continued to live in the house. This is the case, so far as it relates to the fraud committed upon three creditors of Guzra Naikeen.

The deceased Guzra Naikeen had for about twelve years before her death carried on a partnership with one Jysing Bapoo as a manufacturer of gunpowder, &c. &c. In the will which she drew up at the time of her death, she alluded to him as her partner, and said that her share in the goods in the shop amounted at the time to only nineteen rupees' worth. When Baloo Meeya found it necessary to make a fictitious mortgage of the house to Sydeelsha, he seems to have thought it as well to include all the goods in the gunpowder shop, Guzra Naikeen's share in which goods having been already paid for by Jysing Bapoo in funeral expenses, these goods were wholly his. Notwithstanding this, however, Baloo Meeya having acknowledged the mortgage, a decree was passed, and an attachment placed on Jysing Bapoo's property. The mortgage bond was written for the sum of Rs. 400. This money was never paid by Sydeelsha, nor received by Baloo Meeya, the transaction being entirely fictitious. In order, therefore, to be able to account for the absence of the money, should he happen to be questioned about it, he made a complaint at the Police Office, that he had been robbed of Rs. 400 and some other articles, which articles being found in Jysing Bapoo's house, were proved by him to be his own. Sydeelsha having attached the property, Jysing Bapoo brought an action in the Court of Nilkuntrow Vishnoo, Moonsiff, for the removal of the attachment. In this case Baloo Meeya was summoned as a witness by Sydeelsha. He then repeated the story

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that the articles attached were his, and had been mortgaged by him to Sydeelsha, and that Jysing Bapoo was his servant, as he had been that of deceased Guzra, and had no proprietary interest in the goods of the shop whatever. In corroboration of this story, he produced a bond, alleged to have been passed to him by the said Bapoo, for the sum of Rs. 30, which sum he agreed to pay by instalments of Rs. 3 per month from his wages of Rs. 6 per mensem, as those wages became due by Baloo Meeya. This bond, as will presently appear, was also a forgery. Baloo Meeya also filed a 'kurarnama,' likewise a forgery. Baloo Meeya's statement on oath, corroborated by these documents, and also by the fact of Bapoo's having been mentioned as her servant in the will filed in the former case, was believed, and Sydeelsha's attachment confirmed, and the property ultimately sold by the purchaser of Sydeelsha's decree, the prisoner Hoosainbhaee.

The opinion that the Assessors have given in, the Court receives with thanks, and acknowledges the very able manner in which they have traced the proof which has been adduced in this intricate and confused case up to each prisoner.

The conclusions they have arrived at in respect to the guilt of the prisoners No. 1 (Baloo Meeya), No. 5 (Byajee), and No. 6 (Jan Mahomed), are so clear and satisfactory, that the Court at once adopts them, and records, that on the evidence of witnesses No. 1 (Jysing Bapoo), No. 6 (Vitoba Hagowna), No. 7 (Toolja Bharthee), No. 8 (Dadabhaee), No. 9 (Laroobhaee), No. 10 (Chimnabooboo), No. 11 (Sudanundrow), No. 12 (Kesoo Narain), No. 13 (Venaik Wamun), No. 14 (Gunoba Kristna), No. 23 (Sydeelsha), No. 24 (Rusooljee), No. 44 (Krishnajee Trimbuk), and No. 45 (Manoel Salvador), as well as from personal inspection, finds that the 'Warusputra' D is not the original warusputra dictated by Guzra, as it purports to be.

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It also finds, from the evidence of witnesses No. 1 (Jysing Bapoo), No. 18 (Shaik Ahmed), No. 23 (Sydeelsha), and No. 24 (Rusooljee), that the Exhibit J and Agreement C are not genuine.

It also finds, from Exhibits F, J, and L, and the evidence of witness Ardaseer (No. 4), that Baloo Meeya (prisoner No. 1) exhibited the said false Warusputra D in a Suit No. 3069 of 1851, and thereby aided Sydeelsha in maintaining an attachment on certain property, which he (Baloo Meeya) had falsely and fraudulently made over to him, to the injury of persons having a just claim against it, as creditors of the deceased Guzra.

The Court finds statement recorded W of the prisoner Byajee duly proved by witnesses Nos. 27 and 28 (Venaik and Gopal) in Court, and by the statement recorded X of prisoner No. 6 (Jan Mahomed), also duly proved by the said witnesses Nos. 27 and 28, and by the Exhibit G, being a deposition of the said Byajee, and by Exhibit K, being a deposition given by the said Jan Mahomed, which have been duly proved by witness No. 4 (Ardaseer, Moonsiff), and also the evidence of witness No. 23 (Sydeelsha), as regards Byajee, that these persons did aid and assist, by their evidence, and other actions, in substantiating as true in the Court of Ardaseer, Moonsiff, the false claims advanced by Sydeelsha, founded on the false instrument D, to the property claimed by the creditors of the late Guzra, to their injury and damage.

The Court also finds, that these prisoners have not by their defence, or by the evidence recorded on it, refuted the evidence against them recorded for the prosecution.

The Court also agrees with the Assessors, that the evidence against the prisoner No. 2 (Naro Bulal Dahoray), as it consists in respect to the act of writing the false instrument D, is not sufficient for conviction, but records that a case of great suspicion exists against him.

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So far the Court goes with the Assessors; but in respect to the prisoner No. 3 (Bhaoo Soopekur), and No. 4 (Hoosainbhaee), it is compelled to record an opposite view to that which they have arrived at.

The charge on which these prisoners are tried is conspiracy; and it has been proved that the prisoner Baloo Meeya did conspire and concert with Sydeelsha and others to injure certain parties, by means of exhibiting certain false instruments in Courts of Justice.

It is proved that Baloo Meeya, for obvious purposes, made over his ill-gotten property to the witness Sydeelsha, and that Sydeelsha brought a fictitious suit against Baloo Meeya for the same property, and sold his decree to Hoosain (prisoner No. 4). This purchase was palpably fictitious. It was nominally for Rs. 400, whereas it is probable not more than Rs. 63 (vide Statements 23, 20, and 21) were paid, certainly not more than Rs. 125 (vide Hoosain's Statement 5); and that the whole property was immediately given over by prisoner Hoosainbhaee to Baloo Meeya without consideration; and it is proved by witnesses No. 23 (Sydeelsha), No. 20 (Bhyrapa), No. 21 (Seetaram), and the Statement T of Bhaoo Soopekur, that he assisted in this fictitious sale. It is also admitted by Bhaoo Soopekur, that he was a Mooktiar of Sydeelsha in the actions brought against him by the creditors of Guzra, and was his security in some of those actions. He is also proved to have been in the habit of associating with Baloo Meeya by witnesses Nos. 1, 6, and 19 (Jysing Bapoo, Vitojee bin Apajee, and Huree Gunesh). These prisoners have denied that they were aware of any fraud in the affairs in which they were concerned; but the Court considers that this plea is not admissible, and finds, on the evidence adduced, and recorded as above, that the charge of conspiracy with Sydeelsha, Baloo Meeya, and others, to injure the creditors of Guzra, is established against them also.

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The Court, on the above view, records a verdict of guilty of the charge recorded at the commencement of this case against prisoners No. 1 (Baloo Meeya), No. 3 (Bhaoo Soopekur), No. 4 (Hoosainbhaee), No. 5 (Byajee), and No. 6 (Jan Mahomed). In passing sentence, the Court will endeavour to apportion the punishment according to the degrees of guilt of the several prisoners.

Baloo Meeya wulud Abdool Kadur (prisoner No. 1) is sentenced to be imprisoned, with hard labour, for three (3) years; the alternate fortnights in the first two years to be in solitary imprisonment.

Bhaoo bin Khundapa Soopekur (prisoner No. 3) to be imprisoned, with hard labour, for eighteen (18) months.

Hoosainbhaee wulud Kutalbhaee (prisoner No. 4) to be imprisoned, with hard labour, for two (2) years.

Byajee wulud Shekoobhaee (prisoner No. 5) to be imprisoned, with hard labour, for (2) two years; the second and fourth months of the first year in solitary confinement.

Jan Mahomed wulud Fukeer Mahomed (prisoner No. 6) to be imprisoned, with hard labour, for six (6) months. (Regulation XVII. of 1828, Section I.)

The prisoner No. 2 (Naro Bulal) is acquitted, but is ordered to give security for his good behaviour, himself in Rs. 500, and two securities in Rs. 250 each, for two years.

Minute recorded by Mr. A. Remington.—The evidence, I think, fails to establish any conspiracy to injure the interests of Pandoba, Ramjee, and Veerchund, as charged in the indictment.

At first sight, it is not very intelligible why Baloo Meeya should have been so anxious to accept a legacy burdened with the payment of debt, which, immediately after the death of the testatrix, involved him in lawsuits to an amount considerably greater than any interest derivable from the bequest. Again, if by the will constituting him heir, Baloo Meeya became liable *in law* for

deceased's debts, the formal recognition of them in the will was a matter of as little importance as a mere denial of indebtedness would have been, when opposed to the judgment passed in favour of the creditors.

Baloo Meeya does not, either, appear to have contested the action brought against him by these persons; and in regard to the enforcement of the decrees, Veerchund deposed that he was content with attaching the property of his security, while Pandopa, seeing another attachment in operation, kept back altogether. Ramjee Kooshaba was not called at the trial, though the only individual who seems to have been aggrieved, with the exception of Jysing, whose case bears a more serious aspect. In the will propounded as genuine, Jysing is described as a mere servant of the family, having no interest in the concern of the shop; whereas, both in the draft and registered copy of it, his claim as a partner with deceased was fully admitted.

The question then is, whether the will propounded by Baloo Meeya is a genuine instrument, as believed by the Court where it was produced, or, as declared by Vitoba, the writer, *at the time*, and the attesting witnesses and office clerks *now*, to be a mere counterfeit.

It is in evidence, that when deceased was attacked by her mortal sickness, she sent for a scrivener to draw out a will, which was duly completed before her death. As soon as that took place, the property was seized by the Civil Authorities, as is customary when a person dies without known heirs; but their process was withdrawn on the exhibition of the will, and proof to their satisfaction of its due execution.

The document was registered in the Nazir's Office, and was found to correspond with the draft in Vitoba's possession, even to the omission of the English number of the stamp, and the signature of the Collector's Officers. These matters might scarcely be expected to appear in a

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mere draft, drawn out for the approval of the testatrix, but as a matter of course, they ought to have been transcribed in the registered copy, and I think the Sessions Court erred in not inquiring more fully of the department as to its practice in that particular, because, if what appears to me to have been a great omission could be accounted for in any way, the draft would have received a greater confirmation, as also the evidence of the writer Vitoba, whose pertinacity in denouncing the will produced by Baloo Meeya as spurious was the principal cause of this affair having been brought to light. And this inquiry seems to have been the more requisite, as the writer, contrary to his alleged wont, retained a copy of the draft in his possession, for which no reason was assigned; nor can any better be suggested than that, having himself a claim against the testatrix, he may have deemed it prudent so to do.

At the same time, Baloo Meeya does not pretend to say that the draft, and not the original will, was shown to the Nazir's Officers; and he is only able to suggest, in defence, that a substituted copy must have been made by the Nazariate; and it is in favour of Vitoba that he was cited by Sydeelsha, on special petition, to depose to the will produced by Baloo Meeya, notwithstanding, as confessed by that person, he was engaged for the prisoner Ramjee in moving for the removal of the attachment. It is therefore manifest that Vitoba, up to that period, was not distrusted by Baloo Meeya's party; and when, added to all this, the suspicious circumstances under which the will was produced, not promptly, but after a delay of several months, and many citations avoided on the mere plea of sickness, are considered, I can see no valid reason for withholding confidence from Vitoba, nor the other witnesses, whose attention being awakened, *now* depose to the forgery of their signatures, and to a new document having been substituted for the original one.

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But this was not the only fraud committed against the interests of Jysing by Baloo Meeya. Foreseeing great embarrassment likely to arise from the number of suits brought against him, he managed, with the aid of Sydeelsha, to make a fictitious transfer of the property, in carrying out which, the name of Jysing was used as an attesting witness, and an agreement, purporting to have been executed by that individual, was forged, so that the will should not be capable of dispute; and also that Jysing's suit, brought as a partner to raise the attachment, might be dismissed, as it eventually was. In carrying out this part of the transaction, the confederates were assisted by prisoner No. 3 (Bhaoo Khundapa) and Hooseinbhaee (prisoner No. 4). In respect to the last-named, the Assessors reported in his favour; but adverting to his Police statement, that he returned the house to Baloo Meeya without consideration, it seems impossible to resist the impression made on the mind of the Sessions Court, that this prisoner lent himself also to the design of the conspiracy.

The petition must therefore be rejected.

The Session Judge should be informed, that the charge should have set out more in detail the overt acts attributed to each prisoner, as is usual in cases of conspiracy.

Resolution of the Sudder Foujdaree Adawlut.—The petitions are rejected.

The Session Judge is to be instructed, that the charge should have detailed the overt act of each of the accused.

The review of these proceedings induces the impression that the original will was never propounded in the Nazir's Office. The Court desire that the Assistant Judge should inquire and report to the Judge the practice of the Nazir's department in taking copies of such documents, and in whose custody the registered copy of this will was retained, until called for by the Moonsiff.

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The result of the inquiry to be submitted to the Sudder Foujdaree Adawlut.

Return of the Assistant Session Judge to the Precept of the Sudder Foujdaree Adawlut.—Agreeably to the instructions contained in the extract from the proceedings which accompanied this Precept, the Assistant Session Judge in charge, in the absence of the Session Judge on circuit, begs to forward copy of a report of the Assistant Judge, regarding the inquiry made by him of the practice of the Nazir's department in taking copies of wills, &c.

The five petitions have been received, and delivered to the prisoners.

The short delay in making this return has occurred, owing to the difficulty in obtaining dates, with the view to discover in whose custody the copy of the will was retained until called for by the Moonsiff, the above case being as yet in the Sudder Foujdaree Adawlut.

Report of the Assistant Session Judge on the Precept of the Sudder Foujdaree Adawlut.—The Assistant Judge begs to report, that when Guzra Naikeen died on the 8th September 1850, notice was sent from the Foujdar's department to the Nazir, informing him that the property of the deceased was intestate. On receiving this information, the Nazir proceeded to attach the property, when Baloo Meeya produced the will, constituting him heir to the said property. It was not therefore attached, but a copy of the will was taken, compared, and signed, both by the late Nazir and Assistant Judge, and placed with the papers to which it related, the original being returned to the heir, Baloo Meeya. The whole of the papers were then sent to the Judge with the Nazir's Report, stating what he had done in the case, and the Judge wrote a final order, and returned the papers to the Nazir for record.

The copy of the will, after this, remained in the

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custody of the Nazir for some months, when it was sent to the Dufturdar, with the other papers, from whose Office it was forwarded to the Moonsiff through the Judge.

The practice of the Nazir's department is the same in all cases as in the above one, in taking copies of wills and other such documents.

Further Precept issued by the Sudder Foujdaree to the Session Judge.—The Assistant Judge is to be informed that his report is very unsatisfactory; that had he looked beyond the Court's Precept, and studied the case, he would have found that the record of the will retained in the Nazir's Office was defective, in wanting the number of the stamp, and such like particulars essential to its character as an attested copy; and, consequently, the object of the Court in directing an inquiry was to ascertain whether this was a solitary instance of gross neglect, or an adherance to ordinary practice, however slovenly, and, if the former, to whom blame attached.

The Assistant Judge will therefore have the goodness to institute a searching inquiry into the practice of the Nazir's department, in taking copies of documents, and report the result for the Court's information.

Further Return of the Assistant Session Judge to the Precept of the Sudder Foujdaree Adawlut.—The Assistant Session Judge in charge begs to report, that on instituting due inquiry, he finds that it is the ordinary practice in the Nazir's Office, in making copies of such documents as the will alluded to in the extract from the Court's proceedings, to omit the stamp, and counter-stamp the number of the paper, and the signature of the Officer of the Collector. The Nazir has been directed to abandon this laxity of practice, and see that all copies contain every item borne on the original.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 67 of the Calendar of the Poona Sessions Court for 1854. Committed by Mr. J. S. INVERARITY, First Assistant Magistrate, on the 22nd November 1854. Tried by Mr. P. W. LEGEYT, Session Judge, assisted by Assessors, on the 19th and 20th December 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Robbery; and Fraudulent Appropriation of a Letter addressed to one Dhondee Sonareen.

Prisoner.—Gungadhur Trimbuk oorf Bapoo Oodas, Brahmin, aged 27.

Charge.—Robbery (Regulation XIV. of 1827, Section XXXVII. Clause 4th); in having, on or about the 16th February 1854, (corresponding to Magh Wud 3rd, Shuké 1775,) being a writer in the General Post Office at Poona, stolen therefrom one letter addressed to one Dhondee Sonareen, the same containing a 'hoondee' for Rs. 30.

You are also charged, under Act XVII. of 1837, Section XXXIII. with having, on or about the 16th February 1854, (corresponding to Magh Wud 3rd, Shuké 1775,) being then in the employ of Government, in the Post Office Department of Poona, fraudulently appropriated a letter addressed to one Dhondee Sonareen, which letter had come into your possession in your official capacity as Clerk of the Poona Post Office, and which contained at the time a hoondee for Rs. 30.

The prisoner pleads not guilty.

Opinion of the Assessors.—The charge against the prisoner in this case is of having stolen a letter containing a hoondee, in his capacity of a Post Office Clerk. The points for consideration are as follows:—

Was a hoondee sent to complainant by Anundrow Damodur; was that hoondee received by complainant; and was that hoondee stolen and used by the prisoner?

On a consideration of the evidence recorded in the case, we find, that from the evidence of witnesses No. 1

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(Anundrow), No. 8 (Ramchunder Junardun), and No. 7 (Francis de Nazeret), that a *hoondee* was received from Bombay, to the address of the complainant.

The point next to be considered is—Did this hoondee go into the hands of complainant? It is evident, from the depositions of witnesses No. 2 (Dhondee), No. 3 (Bhagoo), and No. 8 (Ramchunder Junardun), that the letter in which the hoondee was enclosed never reached complainant. Fifty-five letters, post-paid, from Bombay, are registered in the Inward Book in the handwriting of the prisoner Bapoo Oodas. Among these there is one to the address of Dhondee complainant. But there is no record or 'dakla' to show that that letter reached Dhondee. There were nine letters for the city, and on referring to Vitoo and Mookoonda the delivery Peons' books, it appears that eight only were distributed in the city. It is quite apparent from Mr. de Nazeret's deposition that one letter to the address of Dhondee was missing. There is no evidence on the part of the defence to show that this letter was given to the party addressed, *i. e.* Dhondee. The agreement of the prisoner, that it is usual for the Post Master to take any post-paid letter to his address, with his own hand, when he happens to be present in the Office, and that it is consequently not debited in the distribution books, and that the one missing of the nine must have been taken by him in this manner (this is the chief ground of the prisoner's defence), does not hold good, inasmuch as Francis de Nazeret (witness No. 7) states that he did mark the letter to the address of the Post Master in the distribution book for delivery to him (Post Master). "It is quite clear from this, that the missing letter was one of those to be distributed in the city."

The next question to be decided upon is—Did the prisoner take this hoondee, and use it? The principal witness is Dhondo Rughoonath. This man was also

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sentenced by the Sessions Court on a charge of having stolen the hoondee in Case No. 51 of 1854. The statement of this Dhondo in the above case has been recorded J in the present one, owing to the fact of his having stated in this statement that the said hoondee came to him through the medium of the prisoner Bapoo Oodas. The present charge was created and brought against the prisoner Bapoo Oodas. If, therefore, Dondo Rughoonath's evidence is supported by other proof, it is worthy of credit. He, Dhondo Rughoonath (witness No. 4), states that the hoondee came to him from prisoner Bapoo Oodas' hands; that when the charge of robbery was brought against him (Dhondo), he did not give up the name of the prisoner Bapoo, because he had told him not to do so. The evidence of Anundrow Gunoba corroborates the assertion of Dhondo, *i. e.* that the prisoner had made attempts to compromise the matter with Bhagoo. It has been shown above, that among the fifty-five letters which were received from Bombay, there was one to the address of Dhondee, and that the whole of these were registered by prisoner Bapoo Oodas. Prisoner did not show that the letter to the address of Dhondee was delivered to her; it must therefore necessarily be concluded that it remained in his possession.

There appears to be no other source but that through the prisoner Bapoo, for Dhondo Rughoonath to have obtained the letter in question. It is therefore evident that Bapoo Oodas stole the hoondee.

From the foregoing circumstances, it is our opinion that the charge, as set out above, has been proved against the prisoner.

Finding and Sentence by the Session Judge.—The history of this case is as follows:—

On the 15th of February last, one Anundrow Damodur (witness No. 1) despatched a letter by the Post Office in Bombay, to the address of one Dhondee Sonareen, a

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prostitute at Poona, and paid the post, and took the usual receipt. This letter contained a hoondee for Rs. 30, for one Bhagoo, also a prostitute, with whom Dhondee Sonareen was then residing.

Not hearing of the arrival of the letter, he wrote to a friend of his in Poona, named Rambhow Golay *alias* Ramchunder Junardun (witness No. 8), and told him to inquire of Bhagoo whether she had received the hoondee. Bhagoo (witness No. 3) said she had not. About the same time Bhagoo and Dhondee Sonareen heard that a hoondee had been seen in Poona, belonging to them, and one Dhondo Rughoonath told them he had purchased such a hoondee, and subsequently offered to give them Rs. 30, if Bhagoo would give him a receipt in full, which she, not knowing the amount of the hoondee, refused to do, till he produced it; and this she (Bhagoo) says he never did.

In the meanwhile, this Dhondo Rughoonath (witness No. 4) had presented the hoondee for Rs. 30 to the party on whom it was drawn, Sorabjee Raja (see Byramjee's evidence), obtained payment for it to a woman, who was represented to the Sowkar to be the true Bhagoo. This woman's real name was Sukoo, and was induced by Dhondo Rughoonath to personate Bhagoo. Dhondo Rughoonath endorsed the hoondee with a receipt for the money in the name of Bhagoo.

Bhagoo (witness No. 3), on hearing her hoondee was lost or stolen, made a complaint against Dhondo Rughoonath, who was taken up, and tried and convicted of the theft in Case No. 51 of 1854 of the Sessions Court. It was on this trial, and from the evidence given on it by Bapoo Oodas, the present prisoner, that his guilt appeared manifest, and he was sent to the Magistrate, and finally committed on the present charge.

Dhondo Rughoonath, the convict in Case No. 51, has been admitted as the evidence against his accomplice;

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and he has stated that he received the hoondee from Bapoo Oodas, and by his desire got it cashed by the assistance of Sukoo.

Bapoo Oodas was employed in the Poona Post Office as a Clerk, and it is in evidence (see Francis de Nazeret's, No. 7) that the inward post-paid letters from Bombay, received on the 16th of February, were all entered by Bapoo Oodas in the Register (Exhibit A), and that among them was one for Dhondee Sonareen; and that on that day there were nine letters post-paid for persons residing in the city of Poona. It also appears from Exhibits B and C, that on that day only eight letters were delivered in the city. Dhondee Sonareen (witness No. 2) says she got none; and Francis de Nazeret's evidence shows beyond a doubt that the missing letter must have been her's, as the other eight were duly delivered. This witness also shows, that from the time of Bapoo receiving the letters to register in the Post Office, till they were distributed for delivery, it was almost impossible that any one else but himself could have appropriated any of them, without having been seen by the persons in the Office. Anundrow (witness No. 1) states that he sent several other letters to Rambhow (witness No. 8), inquiring after this letter of the 15th of February, and showed Post Office receipts for them; but Rambhow says he did not receive them.

This, then, is the case against the prisoner. The direct evidence against him is that of Dhondo Rughoonath, who, no doubt, was an accomplice in the crime, and his evidence can only be received when it meets with corroboration. The Court is of opinion, that it has been corroborated by the Exhibits A, B, C, and the evidence of Dhondee Sonareen (witness No. 2), Bhagoo (witness No. 3), Anundrow (witness No. 1), Rambhow (witness No. 8), and Francis de Nazeret (witness No. 7).

The prisoner's defence was directed against the infer-

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ence to be drawn against him by the evidence of Francis de Nazeret (witness No. 7), and the exhibits, and he contended that the ninth letter of the 16th February was Merwanjee Dadabhaee's (the Post Master), who was in the habit of taking the letters out of the Office on their arrival; but against this is the fact of Dhoudee Sonareen's letter not reaching her, and the hoondee being in possession of Dhondo Rughoonath, who could not have got it by any means of his own, and whose explanation of the way he got it has been shown to be credible.

The Court records a verdict of guilty of the 2nd count of the charge, viz. that on the date charged, you, Gungadhur Trimbuk *alias* Bapoo Oodas, being in the employ of the Government, in the Post Office at Poona, did fraudulently appropriate a certain letter, addressed to Dhondee Sonareen, and which contained a hoondee for Rs. 30.

The sentence of the Court is that you, Gungadhur Trimbuk *alias* Bapoo Oodas, having been convicted of the above offence, and having become thereby liable to the penalties provided therefor by Section XXXIII. Act XVII. of 1837, the said Act being at the period of offence, viz. 16th February 1854, in full force, be imprisoned and kept to hard labour, for a period of seven (7) years.

Minute recorded by Mr. W. H. Harrison.—The prisoner in this case has been sentenced to seven years' imprisonment, with hard labour, for stealing a letter while employed as a Clerk in the Post Office in Poona. I do not see cause to differ from the conclusion come to by the Session Judge, that the prisoner is guilty, and would not interfere with his conviction. The evidence of Dhondo Rughoonath, who had been convicted of receiving the stolen hoondee, must be received with much caution. It counteracts the impressions, however, produced by other circumstances that have come out in

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evidence against the prisoner, and establishes conclusively his guilt.

The sentence is severe, and might be reduced.

Resolution of the Sudder Foujdaree Adawlut.—The Court consider that the offence of which the prisoner has been found guilty did not call for the maximum amount of imprisonment provided by the Act, and the sentence is mitigated to four years' imprisonment, with hard labour.

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SURAT.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 10 of the Criminal Return of the Magistrate of Surat for October 1854. Tried by Mr. H. LIDDELL, Magistrate, on the 25th October 1854. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner Mahdoo Anajee.]

Robbery without Force, by Day.

Prisoners.—No. 1, Rehmutboo, daughter of Bhikajee Baloo, Boree, aged 20.
2, Mahdoo Anajee, Deccanee Koonbee, aged 25.

Charge.—Robbery without force, by day (Regulation XIV. Section XXXVI. of 1827); in having, under date the 12th September 1854, stolen from the house of Jafurjee Budroodeen clothes, and Rs. 100 in cash, valued in the aggregate at Rs. 147, which property was lying in one of the open rooms of the house.

The prisoner No. 1 pleads guilty, and prisoner No. 2 pleads not guilty.

Finding and Sentence by the Magistrate.—Prisoner No. 1 is convicted by her own confession, and by the evidence of the complainant, of the charge brought against her, and is accordingly sentenced to four (4) months' ordinary imprisonment, subject to confirmation by the Magistrate.

Against prisoner No. 2 there is no evidence, except the statement of prisoner No. 1, to convict him of the charge,

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and he is accordingly discharged for want of proof. Strong suspicion, however, rests against him, and as he is a notoriously bad character, he is ordered to furnish a security in the sum of five hundred (500) rupees for good conduct for one (1) year, or to suffer ordinary imprisonment during that period. The security will suffer nine (9) months' imprisonment in failure of payment of the sum for which he stands surety.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested, in submitting future registers of petitions, to take measures for showing what were the pleas entered by petitioners when on trial before the Magisterial Authorities.

Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—In return to the within Precept, it is hereby certified to the Sudder Foujdaree Adawlut, that the extract from the Court's proceedings which accompanied it has been duly received, and the instructions therein contained will be attended to in future.

Resolution of the Sudder Foujdaree Adawlut.—The Court reduce the amount of security demanded to fifty (50) rupees.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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KAIRA.

[Case No. 23 of the Criminal Return of the Magistrate of Kaira for December 1854. Tried by Mr. F. F. ARBUTHNOT, Third Assistant Magistrate, on the 21st December 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Prisoners.—No. 1, Rumbhaee Vuruzbhaee, Pateedar, aged 32.
2, Lukhmeeram Asharam, Brahmin, aged 35.

Receipt of Stolen Property, knowing it to be Stolen.

Charge.—Receipt of stolen property, knowing it to be

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stolen (Regulation XIV. of 1827, Section XLI. Clause 1st); in that, on the 27th of September 1854, (corresponding with Ashwin Shood 5th, Sumvut 1910,) in the limits of the village of Rakeeab, Talooka Thasra, Zillah Kaira, in the possession of the above-mentioned prisoners there was found property, amounting to the value of Rs. 6-11-8, and belonging to the complainant, one Keshurlal Hureebhaee, the said property having been stolen from him, the above-mentioned prisoners being well aware of the fact, and failed to give information to any Public Officer.

Finding and Sentence by the Third Assistant Magistrate, confirmed by the Magistrate.—The prisoners are charged with receipt of stolen property, knowing it to be such, and plead not guilty.

It is sufficiently proved, from the depositions of witnesses Nos. 3, 4, 5, and 6, that the stolen property was in the possession of the prisoners; that they produced it at Runmukteshwar Mahadewa, and gave it to complainant, who immediately recognized it as his own. Witnesses Nos. 7 and 8 on the record state that they did not see the prisoners produce the stolen property, but when they arrived, the property was on the ground by the complainant; and witness No. 10 on the record, who is a brother of prisoner No. 1, and upon whose evidence only a certain reliance can be placed, allows that all the people mentioned in complainant's deposition were there, and that he also saw the property. In none of these depositions, all of which were taken before the Joint Police Amuldar at the time, is there any mention of the prisoners having been ill-treated, and neither do the prisoners themselves in their statements before him complain of ill-treatment. Two months afterwards, however, prisoner No. 2, in his statement before the Police Amuldar, says that he was very much beaten, and otherwise ill-treated, and calls witnesses Nos. 13 and 14 on the

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record to prove what he says; but before the Joint Police Amuldar he stated that he had no witnesses to call; and the Assistant Magistrate is of opinion, that on the evidence of these witnesses no reliance can be placed. Prisoner No. 1 also wished to call new evidence before the Police Amuldar, but as he had stated before the Joint Police Amuldar that he had no witnesses to call, the Assistant Magistrate was of opinion that on their evidence reliance could not be placed, and they were therefore not summoned. Although the prisoners denied the charge before the Joint Police Amuldar, yet a good deal of their statement agreed with the story told by the complainant and the witnesses for the prosecution. On two other occasions, portions of the stolen property belonging to the complainant were found in the possession of prisoner No. 1, and the fact of his having gone to Ahmedabad only to call his brother shortly after the robbery was committed, looks as if he had been the perpetrator of the robbery, or else received the property to dispose of there. Taking, therefore, into consideration, that the stolen property was found in the possession of the prisoners, and that there is also a great deal of suspicion that they were the perpetrators of the robbery, the Assistant Magistrate sentences them, under Reg. XIV. of 1827, Section XLI. Clause 1st, to be imprisoned for the space of six (6) months, with hard labour; at the end of that time they are each to pay a fine of one hundred (100) rupees, in case of non-payment commutable to imprisonment for the space of six (6) months, with hard labour. When the imprisonment has expired, they are each to furnish security for their future good conduct to the amount of one hundred (100) rupees,—in case of non-payment commutable to imprisonment for four (4) months,—for the space of one (1) year, under Regulation XII. of 1827, Sections XXV. and XXVII. Subject to confirmation of the Magistrate.

The fines, if paid, to be given to the complainant.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoners is rejected.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

COLABA.

[Case of Govind Ragho, who was required to furnish Security for future Good Conduct for a year. Reported on to the Sudder Foujdaree Adawlut by the Acting Joint Magistrate of Colaba, Mr. L. REID, on petition.]

Security for Good Conduct.

Decision of the Police Amuldar in the Case.—In the town of Alibagh, on the night of the 22nd July 1854, the house of one Buya, wife of Rama Shinda, was broken into, and a box carried off, containing Rs. 10 cash, and a golden ornament, value Rs. 1-14-0. The complainant Buya, having declared that she suspected Govind Ragho Tandel, the Joint Police Amuldar of Rewadunda took up the case, and forwarded him for trial with his papers Nos. 1 to 6. Upon further investigation before me, there does not appear sufficient proof against the prisoner, and he is accordingly discharged. But great suspicion attaches to him, as it is affirmed by the complainant, and proved by two witnesses, that he was present at her house while she was putting away her money, while he denies having gone to her house at all, and the marks of footsteps outside the house correspond with his. Under these circumstances, and taking into consideration his former convictions, and bad character, it seems desirable to adopt precautionary measures for his future good conduct, as provided by the Regulations. The prisoner, it is ascertained, was convicted for the following offences, and suffered the sentences assigned to each of them :—

Convicted of robbery, and sentenced to, and suffered one hundred stripes, in 1843.

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Twice convicted of robbery, and sentenced to suffer six months' and three years' imprisonment respectively, in 1844.

Convicted of breach of trust, and sentenced to, and suffered two months' imprisonment, in 1850.

The prisoner is accordingly required to furnish security for his future good conduct for the space of one (1) year, in the sum of fifty (50) rupees, or, in default of payment, commutable to imprisonment for the period of one (1) year, subject to the confirmation of the superior Authority. The papers from Nos. 1 to 8 in the case are herewith forwarded.

Order issued under date the 28th July 1854, *by the Acting Joint Magistrate.*—The Police Amuldar of Rewadunda is herewith informed, that the measure he has proposed has received the sanction of the Acting Joint Magistrate, except that the period of imprisonment to be suffered in default of payment of the fine is reduced to six months. If the prisoner fail to furnish security, he is to be kept in imprisonment, and an immediate report is to be made to this Court, for obtaining a warrant for the transmission of the prisoner to the Criminal Jail at Tanna.

[The prisoner having declared his inability to furnish security, the Police Amuldar begged to be furnished with a warrant for his transmission, upon which a warrant was transmitted under date August 2nd, 1854.]

Substance of the Petition of Govind bin Ragho Tandel to the Sudder Foujdaree Adawlut.—I was in my house on the day the robbery was committed. The house of Buya the complainant is close to mine, and as soon as the robbery was committed she gave information to the Sirkar, whereupon my house was searched by the Foujdar, but nothing was found therein. Such being the case, I was put in confinement for nothing, and my case was not sent to the Joint Magistrate. The Police Officer took

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down my statements as he liked, and forcibly made me sign them. He also got the case prepared as desired by the complainant, who is a woman of bad character, and made a report for confirmation. I am a poor man; no one will become security for me. I support myself by labouring, and if desirable, I will enter into my own recognizance; and if I fail therein, I can be punished. Under these circumstances, I pray that the papers of my case be seen, and I be set at liberty.

Return of the Acting Joint Magistrate to a Precept of the Sudder Foujdaree Adawlut, calling for a Report.—In obedience to the instructions contained in the within Precept, the Acting Joint Magistrate has the honour to report, that the petitioner was apprehended in the month of July last, on the suspicion that he had committed a robbery in the house of one Buya, wife of Ruma Scinda, in the town of Alibagh; but as the evidence in the case was not sufficient to substantiate a conviction, and as the petitioner (Govind) appeared to be of bad character, from his previous convictions (no less than four), he was required to furnish security, in the sum of Rs. 50, for his good behaviour for one year, in default to be imprisoned for that period. No security having been tendered, he was committed to the Tanna Jail, under the usual warrant.

The petition received with this Precept is herewith returned.

The Acting Joint Magistrate regrets the delay that has taken place in answering this Precept, which was received on the 14th ultimo, but while travelling in the Districts it was unfortunately mislaid.

Precept issued by the Sudder Foujdaree Adawlut to the Acting Joint Magistrate.—The Court consider that the necessity for requiring security is made out, but the mitigation of the period of imprisonment to be suffered in default is not in accordance with the Regulations, nor

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the Circular Orders on the subject of security; and the order of the Joint Magistrate is annulled, and that of the Police Amuldar of Rewadunda upheld.

Return of the Acting Joint Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning the within Precept, the Joint Magistrate has the honour to request further instructions, as the Court would seem to have considered "the mitigation of the period of imprisonment to be suffered in default" applicable to the prisoner instead of to his security.

Resolution of the Sudder Foujdaree Adawlut.—Under the explanation of the Joint Magistrate, the petition is rejected.

CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN APRIL 1855.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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[Case No. 111 of the Calendar of the Ahmedabad Sessions Court for 1854. Committed by Mr. T. S. JORDAN, Deputy Magistrate, on the 27th October 1854. Tried by Mr. H. NEWTON, Acting Session Judge, on the 16th and 17th February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Prisoners.—No. 1, Kurshun Wukta, Kolee, aged 25.
2, Poonja Ooja, Kolee, aged 28.
3, Buna Wahala, Kolee, aged 22.
4, Jesa Dola, Kolee, aged 25.

Robbery by Night, with Force; and Serious Assault, and Murder.

Charge.—Robbery by night, with force (Regulation XIV. of 1827, Section XXXVI. Clause 3rd); in having, on September 4th, 1854, (corresponding with Monday, Bhadrupud Shood 12th, Sumvut 1910,) at the village of Sheehor, Purgunna Veerumgaum, Zillah Ahmedabad, forcibly opened the door of a shed belonging to one Nagur Weljee, and stolen therefrom two bullocks, his property, valued at Rs. 70.

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Also, under Regulation XIV. of 1827, Section XXIX. and Section XXVI., with serious assault, and murder; in having, at the time and place aforesaid, inflicted divers wounds on the person of Bechur Narkhan and Samta Narkhan, while they were in pursuit of the prisoners, from the effects of some of which wounds the above-mentioned Samta Narkhan died on the night of September 11th, 1854.

On these several charges being stated to the prisoners, they plead respectively not guilty to all.

Finding and Sentence by the Acting Session Judge.—The circumstances of the case are simply these. On the night of September 4th last, two bullocks were taken out of a cattle-shed belonging to deponent No. 1, at Sheehor. Deponent No. 2, and the deceased Samta, his brother, becoming aware of the robbery, went in pursuit, and came up with four men, two of whom were driving off a bullock, while the other two turned upon their pursuers, and an affray ensued, in which Bechur and Samta inflicted wounds on the two men who attacked them, and were themselves severely wounded. Samta died on September 11th, from the effect of the wounds thus received, as shown by the Inquest Report No. 9, and depositions Nos. 4 and 5.

The evidence against the prisoners is as under:—

First, their confessions, made before the Police Authorities. These are now retracted, but the proof of their authenticity is unusually strong. The prisoners Kurshun, Poonja, and Buna (Nos. 1, 2, and 3) confessed in the presence of deponents Nos. 3, 6, 8, 10, 11, 12, 13, 14, 15, 17, and 18, men of different castes, and different villages, and the prisoner Jesa confessed in the presence of deponents Nos. 6, 19, and 20. The three first prisoners reiterated their confessions before different Officers, and though examined separately, as they were apprehended, have each given succinct and detailed narratives of the

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robbery and affray, so identical even in minute particulars as to be of themselves almost conclusive of these prisoners' guilt. Jesa was not apprehended till some days after, when he gave also a detailed confession, exactly corresponding with those of the others. Every witness examined on the point, with the exception of No. 14, has deposed that these confessions were given voluntarily; and No. 14 speaks to no greater violence than a threat by the Sowar (witness No. 11), that he would strike the prisoner Kurshun with a small peg if he did not speak the truth. The supposition, however, that any violence was used, is sufficiently barred by the admission of No. 13 (the Kolee Chief of the village, who has manifestly done all that he could to hide the guilt of the three first prisoners), that he saw none, and that if it had been resorted to in his village, he should have known of it. The Court therefore holds the confessions of the four prisoners to be as weighty against them as any confessions not made before the Sessions Court can be.

Secondly, there is the express identification of all the four prisoners by the deponent No. 2. The statement of this witness, when first examined, that he did not recognise any of the four robbers, adds strength to his subsequent recognition of them, for the prisoners were men whom he had never previously seen. He is shown, however, by his own testimony, and that of deponents Nos. 3 and 4, to have identified them when they were first shown to him. His demeanour gave the Court much confidence in his truthfulness; and as the night was moonlight, being but three days before full moon, he had great facilities for recognition. He mentions Kurshun and Buna as the two assailants, and they are otherwise proved to have been so. He cannot state which of them attacked him, and which his brother—a circumstance not easily accounted for, but indicating the absence of all

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desire to fabricate a story. The deposition of Bechur receives confirmation from the recorded evidence, showing that the robbers traced were four in number, and is further confirmed by the declaration of his deceased brother Samta, which was taken on solemn affirmation by the District Police Officer, though not in the prisoners' presence. The latter deponent was considered at the date of his deposition to be beyond recovery, and died six days afterwards. He has stated that the robbers were four in number, and that two assailed them.

From this point, the evidence against particular prisoners must be considered separately.

The depositions Nos. 10, 11, and 12 show that the three first prisoners, when discovered, were concealing themselves. They have also admitted this in their written statements. Prisoner No. 4 could not be found, but delivered himself up subsequently to the District Police Officer, on hearing, as he stated, that his accomplices had been apprehended, and that the Police were in search of him. Apart from this confession of his motive, the Court cannot but look upon the circumstance of his presenting himself to the District Police Officer as confirmatory of the evidence against him.

The prisoners Kurshun and Buna were found wounded, and they had concealed these wounds from all except those who will not now depose against them. The wounds were considered by several deponents, who saw them, to have been inflicted some seven or eight days before these prisoners were apprehended, *i. e.* about the date of the robbery at Sheehor, and would of themselves be conclusive against these two prisoners. The Acting Session Judge, on personal inspection, finds three scars on each prisoner, all apparently the results of sword-wounds, some of which must have been severe. The prisoners' present story is that in a drunken quarrel they wounded each other; but to this point, as to their alleged

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ill-treatment, and the payment of a bribe by the prisoner Kurshun, they have no witnesses. Nos. 1, 3, 6, 11, and 13 also prove that the three first prisoners, immediately on being brought to Sheehor, were requested by the District Police Officer to point out the way by which they had entered and left the village, and that they traced step by step the path along which the foot-prints of the four robbers had been followed. They also showed the shed where the robbery was committed, the place where the bullocks had been tied, and the scene of their contest with the Chokeedars.

The swords with which two of the prisoners committed the assault have not been found. The shoes before the Court were, before the District Police Officer, admitted by the prisoner Jesa to be his, and the other articles by the other prisoners.

The evidence thus reviewed leaves no doubt in the mind of the Acting Session Judge as to the guilt of any of the prisoners. Against the wounded prisoners Kurshun and Buna, it is complete, and the confessions of the prisoners Poonja and Jesa received such corroboration before the Court as render them amply sufficient for conviction. The confirmatory circumstances in the case of both these prisoners are, the exact correspondence of their statements with the evidence, and their direct identification by deponent No. 2. Against the prisoner Poonja, there are further the proof of his being found in concealment, and of his having, in company with prisoners Nos. 1 and 3, pointed out the locality of the robbery and the assault; and against the prisoner Jesa his being undiscoverable for thirteen days; his admission before the Court that he was present when Buna and Kurshun were wounded, and that he ran away from fear of apprehension; the improbable account which he gave of the matter; and finally, his giving himself over to the District Police Officer.

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The prisoners are charged with three specific offences—robbery with force, by night; serious assault; and murder. The first charge alone needs remark. The cattle taken out of the cow-shed escaped from the prisoners, and returned to their owner: they were also removed from the shed without the breaking of any fastening. While, however, on the one hand, the taking from the shed was sufficiently complete before the cattle got loose again, to constitute robbery, the crime itself was so far in progress that the Court holds the subsequent violence and use of dangerous weapons to have been resorted to in the perpetration of the robbery, and the definition of force is therefore met.

When a man in the commission of a criminal act is led, even unintentionally, to the commission of some other criminal act, he becomes liable to its penalty, however serious; and when others join with him to commit the first crime, they all become responsible for such second graver offence as may be committed by any one of their number.

The Court therefore convicts the four prisoners of robbery, with force, by night; in having, on September 4th, 1854, (corresponding with Monday, Bhadrupud Shood 12th, Sumvut 1910,) at the village of Sheehor, Purgunna Veerumgaum, Zillah Ahmedabad, forcibly opened the door of a shed belonging to one Nagur Weljee, and stolen therefrom two bullocks, his property, valued at Rs. 70.

Also of serious assault, and murder; in having, at the time and place aforesaid, inflicted wounds on the persons of Bechur Narkhan and Samta Narkhan, which occasioned a great degree of bodily suffering to the said Bechur Narkhan, and the death of the said Samta Narkhan, on the night of September 11th, 1854.

Though thus convicted of the same offences, and all equally liable to the extreme penalty, it becomes needful,

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in awarding punishment, to distinguish between the criminality of the several prisoners. The prisoners Kurshun and Buna were evidently the most seriously implicated. Buna, in his proved statements, admitted that he had a sword, and that he wounded one of the Chokeedars. Kurshun has made no such admission; but the depositions of the deceased Samta and his brother Bechur prove that *two* men assailed them, and the wounds found on the persons of these prisoners when they were apprehended, and still plainly visible, show that they are the two. The bare admission, therefore, by prisoner No. 4 (Jesa), that he had a sword, must, in the absence of all evidence that he was engaged in the actual assault, be considered of less importance than the proof which Kurshun bears about on his person that he was so engaged, though he denies having had a sword in his possession.

Another point needs remark. The object of punishment being the prevention of crime, and not retribution on the offender, it ought, on the ground of humanity, whenever called for, to be rendered as effective as possible—to be so dispensed as to exert the greatest possible influence in deterring others from criminal acts. This is especially the case when the law requires the death of the offender. The forfeited life is in a measure trifled with if the sentence is not so carried out as to have the greatest possible effect in keeping others from rendering themselves liable to a similar penalty. The state of crime in this Zillah—the prevalence especially of crimes of violence—is such, that it becomes a duty to inquire whether the punishments from time to time awarded are made the most of. The Acting Session Judge considers that they have not been. With one exception, every execution, as far as can be traced, has taken place at Ahmedabad; and while the inhabitants of the city itself have become so habituated to them that they have latterly attracted no notice, the Districts

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around know of them only from rumour. The Acting Session Judge therefore believes, that one sentence of death carried out in the District in which the crime calling for it is committed will be of more value as a preventive of crime than many executions at the Sudder Station. In the present case, this point seems especially to demand consideration. The District where the murder was committed is one notorious for crime. It is stocked with Kolees, and the Kolee village holder (witness No. 13) shows evident sympathy with the prisoners. A few years ago the greatest Kolee Thakore in the District was convicted by the Sessions Court of concealing a gang robbery, though subsequently acquitted by the Sudder Foujdaree Adawlut. There are also now on the Calendar two more cases of murder perpetrated in the Veerumgaum Talooka, in prosecution of robbery, and in one of them, as in the present, a Village Watchman was mortally wounded while discharging his duty.

For these reasons, the Court passes the following sentence, subject to confirmation by the Judges of the Sudder Foujdaree Adawlut :—

That you, prisoners No. 1 (Kurshun Wukta) and No. 3 (Buna Wahala), be hanged by the neck till you are dead, within the boundaries of the village of Roodatul, in the Veerumgaum Talooka.

And that you, prisoners No. 2 (Poonja Ooja) and No. 4 (Jesa Dola), be transported beyond seas, for the term of your natural lives. (Regulation XIV. of 1827, Section XXXVII. Clause 3rd, Section XXIX. Clause 1st, and Section XXVI. Clause 4th.)

* * * * * *

The fidelity with which the deceased Samta and his brother Bechur discharged their duty, and the lamentable results,—the death of one, and permanent injury to the right arm of the other,—call for a marked acknowledgment. The Court, therefore, under Regulation

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XII. of 1827, Section XXXIII. Clause 3rd, adjudges a reward of Rs. 50 to the family of the deceased Samta Narkhan, and one of Rs. 30 to Bechur Narkhan.

The Court is of opinion that a charge of perjury could not be sustained against the witness Jodhajee (No. 13), or the preparation of such a charge would have been directed.

Letter from the Acting Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour herewith to forward, for the purpose of being submitted for confirmation of the Judges, Case No. 111 of the General Calendar for the year 1854, together with extracts from my proceedings of yesterday's and this day's dates.

Regulation XIV. of 1827, Section IV. Clause 1st, prescribes that the place at which the punishment of death shall be inflicted is to be specified in the warrant, thus leaving the selection to the Judges of the Sudder Foujdaree Adawlut. At it is usual, however, to specify the place of execution in the sentence, I have in my finding given the reasons which cause me to recommend a village near the scene of the murder, and to which three of the prisoners belong.

The distance of the village of Roodatul from Ahmedabad is about 38 miles. I have communicated with the Magistrate, and enclose copy of my letter, and of his reply. As he considers that a military guard would be necessary for the safe custody of prisoners in such cases, the expense incurred would be considerable; and it is my duty to state that I should under the circumstances apply for a strong party, but I have not considered that I should be justified on this ground in omitting to bring the measure before the consideration of the Judges of the Sudder Foujdaree Adawlut.

On taking charge of this Office on January 27th, I found fifteen charges of murder on the criminal file, all of them received subsequent to October 19th last, and

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six more have been since committed. The published Reports of Crime for the years 1844 to 1849 inclusive show that the number of murders reported during those years within the jurisdiction of the Ahmedabad Sessions Court were much more than double the average of those reported during the same period in the other seven Zillahs of the Presidency. I have not the means of making the comparison for subsequent years. The propriety of suppressing the practice of carrying arms in Guzerat was suggested to Government by the Judges of the Sudder Foujdaree Adawlut twelve months ago, and as no order on the subject has been issued, it may be supposed that Government have not concurred in the recommendation: there is therefore an urgent necessity for considering whether any other means are available for diminishing this great prevalence of crimes of violence.

Mortal injuries from sword-cuts appear to be very frequently inflicted here in prosecution of robbery; and I think it probable that exemplary punishments would have much greater effect as preventives of murders perpetrated under such circumstances than of those which arise from the more deeply-seated cause of vindictive or malignant feelings.

Should the Judges of the Sudder Foujdaree Adawlut see fit to direct a capital sentence to be carried out near the scene of the crime in the present case, I shall recommend a similar measure in other suitable cases, until its efficiency shall have been tested.

I beg to state, with reference to the 2nd paragraph of Mr. Hadow's letter, that I have been unable to discover any prohibition of the practice alluded to, the letter quoted not having reference to the subject.

Letter from the Acting Session Judge to the Magistrate.—As I am considering the propriety of recommending to the Judges of the Sudder Foujdaree Adawlut that some capital sentences should be carried out in the

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Districts where the crimes calling for them may have been committed, instead of at Ahmedabad, I have the honour to request that you will favour me with your opinion whether there would be any difficulty in ensuring the safe custody of prisoners under sentence of death from the Sudder Station to distant Districts, or in providing against breaches of the peace in cases where the distance may make it desirable to employ Sepoys of the Kolee Police Corps instead of a military guard.

Reply from the Magistrate to the Acting Session Judge.—In reply to your letter No. 83, of this day's date, I have the honour to inform you, that I am of opinion that military parties would be requisite to ensure the safe custody of convicts when taken any distance from the Sudder Station with a view of carrying out capital sentences, especially in those cases in which the convicts belong to the Mehwasee orders.

I believe the practice had been discontinued in this Zillah, consequent on the orders of the Government of India, communicated to Zillah Judges in this Presidency in the Court's letter of 10th February 1835.

Minute recorded by Mr. M. Larken.—I would confirm the convictions and sentences. I do not concur with much that the Session Judge has recorded at pages 57 and 58 of his English proceedings; but as he has informed us that "the District where the murder was committed is one notorious for crime," and that there were two more cases on the Calendar for trial, of murder,—perpetrated in the same district, in prosecution of robbery,—in one of which a village Policeman was, as in the present case, slain in the discharge of his duty, I think that the execution of the prisoners Kurshun and Buna at the village of Roodatul may have the effect of a salutary warning to the Kolee population of the Veerumgaum Districts. That such an experiment should be tried is justified by what Mr. Newton remarked in his letter

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handing on this trial for confirmation. A copy of this letter I would submit to Government, with special reference to the allusion in the 4th paragraph to the Sudder Court's recommendation that the carrying of arms in Guzerat should be suppressed.

I would request the Acting Session Judge in future to give the number of each prisoner whenever his name is mentioned in the trial.

Narkhan's reward should be raised to Rs. 50, if the Civil Surgeon can certify to the permanent injury to his arm.

Minute recorded by Mr. W. H. Harrison.—There is a suspicious similarity in the confessions of the prisoners taken before the Police in this case, and I cannot rely on the identification of their assailants by the two Watchmen who were the sufferers in life and limb on the occasion.

There is, however, so strong corroboration of their admissions against the prisoners Kurshun (No. 1), and Buna (No 3), in the wounds upon their persons, and against all four in the circumstances that have come out in evidence, as to lead to the conclusion that they were the parties who committed the robbery in the house of Nagur Weljee, and that in their flight from the village, on being overtaken by the Watch Bechur Narkhan and Samta Narkhan, the former was severely, and the latter mortally wounded, by Kurshun and Buna.

The conviction of these two prisoners I should therefore confirm.

In regard to prisoners Poonja (No. 2) and Jesa (No. 4), it does not appear that they were engaged in the attack on the Police; it must, I think, be concluded from the evidence, that they fled.

It is true that if, while concerned with others in the perpetration of crime, murder was committed, they would be liable for such, though the deed were done by the hand of another of the party; but a distinction must

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be made when, as in this case, the murder took place, not in the prosecution of robbery, but of the escape from justice of the thieves. Their presence would have made the odds against the Watchmen double, and as it is not shown that they were present aiding and assisting in the wounding, I hold that they should be acquitted of the assault and murder, and convicted of the robbery only. The circumstances of the case will justify the remission of the capital sentence passed upon Kurshun and Buna.

Poonja and Jesa should be punished for the robbery by a term of imprisonment.

Resolution of the Sudder Foujdaree Adawlut.—The convictions of prisoners Kurshun (No. 1) and Buna (No. 3) are confirmed. Their sentences are referred to a third Judge. The convictions of prisoners Poonja (No. 2) and Jesa (No. 4) are referred to a third Judge.

Minute recorded by Mr. A. Remington.—If the encounter with the Watchmen had taken place when the robbers were engaged in removing the cattle from complainants' shed, the prisoners Poonja and Jesa would have been as guilty of the murder and assault as Kurshun and Buna, who were conclusively proved to be the assailants. But it is shown that the robbery was perpetrated before the pursuit commenced, and the subsequent conflict with the Chokeedars was not, therefore, in the endeavour to effect the common object, that is robbery.

To convict Poonja and Jesa of the murder, it ought, in my opinion, to have been proved that they were present; for if several persons are engaged in committing a robbery, and upon pursuit run different ways, and one of them kills a pursuer to avoid being taken, the others are not considered as principals in that offence; and Bechur Narkhan deposed that Poonja and Jesa ran off when he and his brother came up.

I concur, therefore, with Mr. Harrison, in limiting the conviction of these prisoners to the count charging

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robbery at night, without force, as the entrance into the enclosure was not effected by breaking any fastening, as required by the definition of force given in Clause 3rd Section XXXVI. Regulation XIV. of 1827.

I concur, also, in the remission of the sentence passed upon Kurshun and Buna.

Final Resolution of the Sudder Foujdaree Adawlut.—The prisoners Kurshun (No. 1) and Buna (No. 3) are sentenced to be transported for life.

The prisoners Poonja (No. 2) and Jesa (No. 4) are convicted of robbery by night, without force, and sentenced to seven (7) years' imprisonment, with hard labour.

The Acting Session Judge is to be requested in future to give the number of each prisoner whenever his name is mentioned in the trial.

Bechur Narkhan's reward may be raised to Rs. 50, if the Civil Surgeon can certify to the permanent injury to his arm.

A copy of the Acting Session Judge's letter to be submitted to Government, with especial reference to the allusion in the 4th paragraph to the Court's recommendation that the carrying arms in Guzerat should be suppressed.*

* *Letter from the Registrar of the Sudder Foujdaree Adawlut to the Secretary to Government.*—I am directed by the Judges of the Sudder Foujdaree Adawlut to forward, for the purpose of being laid before the Right Honorable the Governor in Council, copy of a letter from the Acting Session Judge of Ahmedabad, dated the 17th February 1855, and, with reference to the allusion in the 4th paragraph thereof, to draw the attention of his Lordship in Council to the recommendation of the Sudder Foujdaree Adawlut, conveyed in my letter dated the 6th April 1854, No. 742, that the carrying arms in Guzerat should be suppressed.

Resolution of Government.—That the Judges of the Sudder be informed, that the subject of their letter has engaged the careful consideration of Government, and that before passing his decision on the important question under discussion, the Right Honorable the Governor in Council has thought it his duty to obtain the opinion of Major Wallace, an Officer who has served for many years consecutively

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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SHOLAPORE.

[Case No. 119 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. T. C. LOUGHNAN, Magistrate, on the 23rd December 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 30th December 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Knowingly Making Use of a Fraudulently altered Document.

Prisoner.—Buslingapa wulud Shidapa, Rader, aged 32.

Charge.—Knowingly making use of a fraudulently altered document (Regulation XIV. of 1827, Section XVII. Clause 2nd); in having, on Monday, the 4th December 1854, (corresponding with Somwar, Margsheersh Shood 15th, Shuké 1776,) at the village of Toombjee, in the Moodebehal Talooka of the Sholapore Zillah, produced before the Acting Police Amuldar a receipt-book, in which an entry of 8 annas had been fraudulently altered to Rs. 1-8-0, in support of a petition in his own handwriting, dated the 3rd of December, in which he alleged that the Koolkurnee of his village had received more than he had credited in his name in the Government accounts.

Finding and Sentence by the Session Judge.—The prisoner is charged with knowingly making use of a fraudulently altered document, and pleads not guilty.

The prisoner does not deny having produced his receipt-book, in which the alleged alteration has been

in Guzerat, and who is intimately acquainted with the habits and feelings of the population of that province.

In the mean time, the Right Honorable the Governor in Council would remark, that it is within the power of the local Magistrates, in conformity with the Regulations, to impose some restraint on the open carrying of arms by persons whose characters are not above suspicion; and that if this power is enforced with due discrimination, the Government anticipate that it will in some measure attain the object in view, at least until a decision can be passed on the general question.

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made, before the Acting Police Amuldar of the Toombjee Péta, in support of a charge against the complainant, of having levied from him Rs. 1 more than he owed to Government, and than is credited in the Government accounts; and the only question, therefore, which remains for the Court's decision, is whether the entry therein, under date June 2nd, 1854, has been fraudulently altered or not.

The prisoner's defence before the Police, to the effect that he on that date borrowed Rs. 1 at the Chowree from Nagupa, in the presence of Ramapa bin Mulapa and Ramapa wulud Shidapa, and paid the same, with other 8 annas, to the Koolkurnee (the complainant), in their presence, having completely broken down, the Court feels bound to credit the latter's evidence, supported as it is by an inspection of the item in the receipt-book, showing it to have been altered as described, by the entries under the same date in the Government account books of the village, and by the extreme improbability of the complainant's entering more in the prisoner's receipt-book than in the village day-book and ledger, and that in a way which would assuredly lead to detection.

Considering, therefore, that no doubt can be entertained, either regarding the document having been fraudulently altered, or of the prisoner having been cognizant of this, when he made use of it, he is convicted of knowingly making use of a fraudulently altered document; in having, on Monday the 4th December 1854, (corresponding with Somwar, Margsheersh Shood 15th, Shuké 1776,) at the village of Toombjee, in the Moodebehal Talooka of the Sholapore Zillah, produced before the Acting Police Amuldar a receipt-book, in which an entry of 8 annas had been fraudulently altered to Rs. 1-8-0, in support of a petition in his own handwriting, dated the 3rd of December, in which he alleged that

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the Koolkurnee of his village had received more than he had credited in his name in the Government accounts.

And after maturely considering the nature of the offence committed, and the punishment provided for the same by Clause 3rd, Section XVII. Regulation XIV. of 1827, the following sentence is passed :—

That you, Buslingapa wulud Shidapa, be imprisoned with hard labour, for nine (9) months, and pay a fine of one hundred (100) rupees, or be further imprisoned with hard labour, for nine (9) months.

Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion that the offence will be sufficiently punished by the imprisonment, and remit the fine.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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TANNA.

[Cases Nos. 104 and 105 of the Calendar of the Konkun Sessions Court for 1854. Committed by Mr. R. H. PINHEY, Assistant Magistrate, on the 25th and 27th November 1854. Tried by Mr. R. KEAYS, Session Judge, on the 6th and 7th December 1854, and 3rd and 4th January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Perjury.

Prisoner.—Nuthia Vit Gawur, Agree, aged 25.

Charge in Case No. 104.—Perjury (Regulation XIV. of 1827, Section XVI. Clause 1st) ; in that he did, on Thursday, the 18th day of May 1854, (*i. e.* Wuishakh Wud 6th, Shuké 1776,) at Manikpoor, in the Tanna Collectorate, before the Foujdar of Bassein, state on solemn affirmation that he was at Manikpoor, in the Bassein District, on Easter Sunday, the 16th day of April 1854, and there saw one Phursee (a woman) fall, in consequence of tripping on the roots of a tree, and break her leg, whereas, on the said Easter Sunday, he (prisoner) was not at Manikpoor at all ; his object in thus committing perjury being the exculpation of a prisoner by name

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Jako Muthoolya, who was charged with having grievously assaulted the said Phursee woman, and broken her leg, by beating her with a stick."

The prisoner pleads not guilty.

Charge in Case No. 105.—Perjury (Regulation XIV. of 1827, Section XVI. Clause 1st); in that he did, on Sunday, the 13th of May 1854, (*i. e.* Wuishakh Wud 1st, Shuké 1776,) at Bassein, in the Tanna Zillah, before the Foujdar of Bassein, state on solemn affirmation that he was at Manikpoor, in the Bassein District, with Vitya Shenwar, on Easter Sunday, the 16th April 1854, and there and then saw Jhoojia Phukeer Dumay and three others beat and otherwise grievously assault one Vitoor Mutais Debrit, whereas, on the said Easter Sunday, he (prisoner) was not at Manikpoor at all; his object in thus committing perjury being the procuring the unjust conviction of Jhoojia Phukeer Dumay and three others of grievously assaulting the said Vitoor Mutais Debrit.

The prisoner pleads not guilty.

Finding by the Session Judge in Case No. 104.—The prisoner is accused of wilful perjury; in having, at the time and place mentioned in the charge, falsely stated on solemn affirmation, before the Foujdar of Bassein, that he was on Easter Sunday at the village of Manikpoor, and had then and there seen a woman named Phursee break her leg, by tripping over the roots of a tree, whereas the said prisoner had not been to Manikpoor on that day at all, and had given this false statement to exculpate a person named Jako, who was at that time charged with having severely assaulted the above-mentioned Phursee, and broken her leg, by beating her with a stick. The prisoner asserts the statement in which the perjury is alleged to be true, and admits that it was given on solemn affirmation. All that remains to be seen, therefore, is whether the prisoner was at Manikpoor on the day specified or not.

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The Court is of opinion that nothing can be clearer than the evidence on this subject, by which it is most satisfactorily established, that on Easter Sunday the prisoner was at Panjoo, and therefore it is impossible that he could have been at Manikpoor. Therefore, as it is evident from the substance of it that it was given to exculpate Jako, as alleged in the charge, the prisoner is convicted of perjury; in having, on Thursday, the 18th day of May A. D. 1854, (*i. e.* Wuishakh Wud 6th, Shuké 1776,) at Manikpoor, in the Tanna Collectorate, before the Foujdar of Bassein, stated on solemn affirmation, that he was at Manikpoor, in the Bassein District, on Easter Sunday, the 16th day of April A. D. 1854, and there saw one Phursee (a woman) fall, in consequence of tripping on the roots of a tree, and break her leg, whereas, on the said Easter Sunday, he (prisoner) was not at Manikpoor at all; his object in thus committing perjury being the exculpation of a prisoner by name Jako Muthoolya, who was charged with having grievously assaulted the said Phursee woman, and broken her leg, by beating her with a stick.

There being another case against the prisoner laid over for consideration, sentence is deferred.

Finding and Sentence by the Session Judge in Case No. 105.—The prisoner Nuthia Vit Gawur is accused of wilful perjury, in having, at the time and place mentioned in the charge, falsely stated on solemn affirmation that he was at Manikpoor on Easter Sunday, with Vitya Shenwar, and there and then saw Jhoojia Phukeer and three others commit an assault on one Vitoor Mutais Debrit, whereas on the day in question he was not at Manikpoor at all; his object by giving this false statement being the procuring the unjust conviction of the said Jhoojia Phukeer and others of assault.

The prisoner asserts the statement in which the perjury is alleged, to be true, and admits that it was given on solemn affirmation; all that remains to be

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seen, therefore, is whether the prisoner was at Manikpoor on the day specified or not.

In this case, the evidence is even stronger than in the last; for not only is it proved that the prisoner could not by any possible means have been at Manikpoor on Easter Sunday, but it is proved, also, that he (the prisoner) was certainly not with Vitya Shenwar. There being no doubt of the object of this false statement, and as it was given in a judicial inquiry, the prisoner has clearly committted the offence with which he is charged, and he is therefore convicted of perjury; in having, on Sunday, the 13th day of May 1854, (*i. e.* Wuishakh Wud 1st, Shuké 1776,) at Bassein, in the Tanna Zillah, before the Foujdar of Bassein, stated on solemn affirmation that he was at Manikpoor, in the Bassein District, with Vitya Shenwar, on Easter Sunday, the 16th day of April 1854, and there and then saw Jhoojia Phukeer Dumay and three others beat and otherwise grievously assault Vitoor Mutais Debrit, whereas, on the said Easter Sunday, he (prisoner) was not at Manikpoor at all; his object in thus committing perjury being the procuring the unjust conviction of the said Jhoojia Phukeer Dumay and three others of grievously assaulting the said Vitoor Mutais Debrit.

Having duly considered the nature of the crime proved against the prisoner in this case, and looking, also, at the finding in Case No. 104 of the General Calendar of 1854, the Court passes the following combined sentence:—

That you, prisoner Nuthia Vit Gawur, do suffer imprisonment for a period of sixteen (16) months, that is to say twelve (12) months with hard labour, and four (4), viz. the third, sixth, ninth, and last months in solitary confinement. (Regulation XIV. of 1827, Section XVI. Clause 2nd.)

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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AHMEDABAD.

[Case No. 132 of the Calendar of the Ahmedadad Sessions Court for 1854. Committed by Mr. H. B. LINDSAY, Third Assistant Magistrate, on the 12th December 1854. Tried by Mr. H. NEWTON, Acting Session Judge, on the 6th February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Prisoner.—Mowjee Runchore, Kolee, aged 50. Murder.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in that on Wednesday, November 29th, 1854, (corresponding with Margsheersh Shood 10th, Sumvut 1911,) at Bareeja, in the Jetulpoor Purgunna of the Ahmedabad Zillah, he purposely, and without justifiable or extenuating cause, deprived of life one Narunjee Rutnajee, by stabbing him in the belly, the said Narunjee having died from the effects of this wound on the same day.

Finding and Sentence by the Acting Session Judge.—The prisoner is charged with murder, and pleads not guilty. When called upon for his defence, however, he admits all that is in evidence against him, viz. that he stabbed Narunjee with a sword in the belly, and that from the effects of that wound Narunjee died. The prisoner has confirmed before the Court his statement made before the Third Assistant Magistrate; and his previous confession, made before the Acting District Police Officer, is borne out in so many particulars by the evidence recorded, that the Court looks upon it as a correct narrative of what occurred. The circumstances of the case are therefore briefly these:—The deceased, having lost his own wife some twelve months ago, had been carrying on an adulterous intercourse with the prisoner's wife some three or four months before his death, and, according to prisoner's statement (which is shown by the depo-

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nent No. 4 to have been communicated to others at the time), was detected by him on one occasion about six or eight weeks before the commission of the crime under investigation, lying in the same bed with her. As this improper intimacy continued, and the prisoner was also insulted by his wife, he requested some friends to assemble a 'punchayet,' and give him redress; the redress which he desired being, he states, divorce. On the evening of the day, however, on which he had made this request, he was returning at about 9 o'clock from his field to his house, fearing, according to his own account, lest his wife and Narunjee should hear that a punchayet was about to investigate the matter, and decamp, when he saw them both together at the entrance of a lane, and on seeing him they ran way. He followed them, until Narunjee ran into his own house; he then pursued his wife, and, after slightly wounding her, returned to Narunjee, and stabbed him in his house.

This is the prisoner's statement of the case, and no other view more favourable to him can be taken. It receives confirmation on many points, as for instance from the depositions Nos. 4 and 8, as to the prisoner's belief that adulterous intercourse existed between his wife and Narunjee, from the same depositions as to prisoner's having asked for a punchayet; from the deposition No. 5, as to the prisoner having pursued his wife about the same time, and therefore as to her having probably been in company with Narunjee. The blood found in Narunjee's house, as deposed by witness No. 4, shows that prisoner has stated the truth in saying that he stabbed him there, and the circumstance that deceased's child was with the corpse when it was first discovered, confirms prisoner's statement that deceased, after being wounded, took the child and went out, although he must have died immediately.

The prisoner, after wounding Narunjee, went to the

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Police Chowree, and gave some information to the deponent No. 12, but, if that witness deposes correctly, did not mention the crime which he had committed, as indeed may be inferred from the circumstance that he was not then apprehended. He subsequently made no attempt to escape, and admitted what he had done when questioned. He is not shown to have previously provided himself with a sword, or to have procured one at the time for the commission of the crime, but appears to have had one with him, which he had taken for other purposes. The Court, indeed, thought it possible that he might have inflicted the wound without drawing the sword out of the scabbard, which was broken; but he does not plead this, there is no evidence of it, and the absence of blood from the scabbard makes the presumption improbable.

Under all these circumstances, which established an absence of premeditation on the part of the prisoner, and show that he acted under considerable irritation, the Court holds his offence to be "divested of so much criminality as would constitute murder," and finds him guilty of culpable homicide; in having, on Wednesday, November 29th, 1854, (corresponding with Margsheersh Shood 10th, Sumvut 1911,) at Bareeja, in the Jetulpoor Purgunna of the Ahmedabad Zillah, under extenuating circumstances, stabbed one Narunjee Rutnajee in the belly, the said Narunjee having died from the effects of this wound on the same day.

In awarding punishment, two circumstances in evidence must be taken into account—the first, that from the deadly character of the weapon used, the extent of the wound, as proved by the Inquest Report, and the part of the body on which it was inflicted, there can be little doubt that the prisoner's intention was to deprive Narunjee of life; and secondly, that the provocation received at the time of the crime, though already held sufficiently

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great to change the crime from murder to culpable homicide, was yet so inadequate as to leave the homicide one of a serious character. Had the prisoner killed Narunjee immediately after the actual adultery, which he alleges that he witnessed, the complexion of the case would have been greatly changed; but he had had six or eight weeks' cooling time, and though irritation must have continued, he had no immediate provocation to the deed, beyond the sight of his wife and Narunjee together, and running away.

With such precedents, therefore, as the case of Howliah bin Pursapa (Bellasis's Reports, page 60), differing from this chiefly in that, if the irritation was less, the intent to take away life was also far more questionable, and considering the little value set on human life in this province, there being fifteen other cases, in which life has been taken away, at present on the Calendar of this Adawlut, the Court does not feel at liberty to pass a light sentence.

The following sentence is therefore recorded:—

That you, Mowjee Runchore, suffer imprisonment, with hard labour, for eight (8) years, under Regulation XIV. of 1827, Section XXVII. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

* * * * * *

Before closing the proceedings, the Court would draw the Magistrate's attention to the statement by the prisoner, and deposition of the witness No. 4, that the prisoner, about six or eight weeks before the crime, informed the Mookhee that he had detected Narunjee in the act of adultery with his wife, and that the result was a day's confinement of Narunjee in the Chowree. Had the provisions of Act II. of 1845 been applied to the case, it is probable that the conduct complained of might have been discontinued, and the homicide prevented. This case has not been delayed for the production of the

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Mookhee, since, on the evidence of deceased's brother (witness No. 4), the prisoner's assertion that he witnessed the adultery must be admitted as true, whether the Mookhee may deny it or not.

The District Police Officer should have caused the members of the Inquest to examine and record their opinion respecting the blood found in Narunjee's house, and have traced it from thence to the place where the corpse was found. Evidence corroborative of the prisoner's statement that he stabbed Narunjee in his house has been obtained only accidentally.

According to the provisions of Regulation XIII. of 1827, Section XXXVII. Clause 1st, the Assistant Magistrate should have caused the prisoner's statements made before him to be "authenticated by the certification and signatures of two competent persons present," who should have been held in attendance on the trial. Had the prisoner not confirmed these statements, they could not have been recorded.

The Assistant Magistrate is in error in holding that "the evidence of a wife against her husband is not legally admissible." The Judges of the Sudder Foujdaree Adawlut have held it inexpedient to use it as a general rule, but cases may occur demanding a deviation.

Minute recorded by Mr. M. Larken.—I do not think the Acting Session Judge was justified, by the evidence, in finding the prisoner guilty of culpable homicide. The "act" was deliberate; the "intention" was expressedly murderous; and the "cause" was, after what the Acting Session Judge calls "six or eight weeks' cooling time," barely provocative of jealousy.

The sentence should be confirmed.

Minute recorded by Mr. W. H. Harrison.—In this case, the prisoner has been convicted of culpable homicide, it being shown that he stabbed the deceased Narunjee immediately after seeing him late in the even-

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ing in company with his wife, without his leave, an intrigue having existed between the parties for several months.

The prisoner, it is also shown, had, six or eight weeks previous to the homicide, witnessed criminal intercourse between Narunjee and his guilty partner. He had cautioned the offenders, and complained to the elders of his village on the subject. After this, the circumstances of the meeting on the evening in question may be fairly assumed to have left little doubt of its purpose on his mind. Great provocation is thus shown for the act committed, and although it does not amount to exculpation, I concur in the finding of the Session Judge, and would confirm the conviction of culpable homicide.

The sentence appears to me too severe, and should I think be mitigated.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed, and the sentence referred to a third Judge.

Minute recorded by Mr. A. Remington.—The alleged infidelity of the prisoner's wife cannot form a ground of justification in this case, as she and Narunjee, deceased, were not discovered in criminal intercourse when the act was committed.

It appears to me, that there is nothing to extenuate or reduce the crime of murder to culpable homicide, there having been no excuse for using so deadly a weapon, with an intention, as the Session Judge found, to deprive Narunjee of life.

I would not interfere.

Final Resolution of the Sudder Foujdaree Adawlut.—Sentence confirmed.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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BELGAUM.

[Case No. 26 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. C. F. H. SHAW, Second Assistant Magistrate of Belgaum, on the 26th February 1855. Tried by Mr. A. W. JONES, Session Judge, on the 28th February 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, in view to the mitigation of the punishment assigned by the Session Judge.]

Gang Robbery with Force, by Night.

Prisoners.—No. 1, Punya bin Kédaree, Mhang, aged 30.
2, Dakya bin Limnak, Mhar, aged 25.
3, Nanya bin Chimnak, Mhang, aged 25.
4, Maya bin Chinak, Mhar, aged 30.
5, Pomya bin Hoosein Nack, Mhar, aged 25.
6, Dhunya bin Chunak, Mhar, aged 25.
7, Bheema bin Nursinga, Mhar, aged 40.
8, Pursya bin Ramnak, Mhar, aged 30.

Charge.—Gang robbery with force, by night (Regulation XIV. of 1827, Section XXXVII. Clause 1st); in having, on or about Sunday, the 14th January 1855, (corresponding with Poush Wud 11th, Shuké 1776,) between the hours of sunset and sunrise, proceeded to the field jointly cultivated by Jotee, Bhairoo, and Naikoo, situated within the limits of the 'inam' village Mankapoor, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, and there beaten the abovenamed three persons, who were watching the aforesaid field, with stones and sticks, and in having plundered them of clothes, alleged to be of the value of

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Rs. 1, and 'jowaree' of the value of Rs. 12, making in all property said to be of the value of Rs. 13.

Finding and Sentence by the Session Judge.—The prisoners are charged with gang robbery with force, by night, and plead guilty.

It appears that they all went together to a field of the village of Mankapoor, in the middle of the night, and drove off the persons who were watching the grain gathered there, and carried it off; but it does not appear that they were armed, or that they used any violence of a nature to injure any one seriously; and therefore, though they must be convicted of the crime charged against them, since they have admitted it in their own confessions and plea of guilty before this Court, it is not requisite to pass a severe sentence.

The prisoners are accordingly convicted of gang robbery with force, by night; in having, on or about Sunday, the 14th January 1855, (corresponding with Poush Wud 11th, Shuké 1776,) between the hours of sunset and sunrise, proceeded to the field jointly cultivated by Jotee, Bhairoo, and Naikoo, situated within the limits of the inam village of Mankapoor, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, and there beaten the abovenamed three persons, who were watching the aforesaid field, with stones and sticks, and in having plundered them of clothes, alleged to be of the value of Rs. 1, and jowaree of the value of Rs. 12, making in all property said to be of the value of Rs. 13.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXXVII. Clause 1st, the following sentence is passed:—

That you, Punya, Dakya, Nanya, Maya, Pomya, Dhunya, Bheema, and Pursya, be imprisoned and kept to hard labour, for two (2) years.

Letter from the Session Judge to the Registrar of the

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Sudder Foujdaree Adawlut.—In considering Case No. 26 of this year's Calendar, the prisoners in which (Punya bin Kédaree, and seven others) were convicted on their confessions, on the 28th ultimo, it has occurred to me that a sentence of one year's imprisonment with labour would have sufficed, and I therefore beg to forward the case to the Judges, in view to the mitigation of the punishment assigned. My object in doing this, however, is, that in case the Judges should agree with me, it might then be intimated to Mr. Shaw, or any Assistant Magistrates with equal experience, that they might in similar cases pass sentences of a like nature; and I would in such cases also allow of some consideration being had to the distance which all the persons concerned in the trial would have to travel, in case the prisoners were committed for trial at the Sessions, instead of being at once sentenced by the Assistant Magistrate, on which subject I beg to direct attention to Mr. Shaw's remarks.

Minute recorded by Mr. W. H. Harrison.—The prisoners pleaded guilty, and there is no cause to interfere with their conviction.

I consider that one year's imprisonment will be sufficient punishment in their case, but should not consider it proper to issue any orders on the point alluded to by the Session Judge, such as might interfere with the discretion vested by law in the Magistrate. Moreover, after the remarks of the Magistrate in this case, in which I quite concur, nothing more is required.

Resolution of the Sudder Foujdaree Adawlut.—When the Magistrate annulled his Second Assistant's conviction, he recommended him to arraign the prisoners for gang robbery; and, in the event of their pleading guilty, to convict them, and pass sentence. Instead of this, Mr. Shaw commits the prisoners for trial, though expressing his consciousness that a year's imprisonment, to which he might have sentenced them himself, would

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be a sufficient punishment, and that he was inflicting a great hardship upon the witnesses in the case, by sending it up to the Sessions. This strange proceeding is followed by the Session Judge passing a sentence of two years' hard labour upon the prisoners, on the 28th of February; and, on the 17th of the following month, recommending a mitigation of the sentence to one year; reporting that "it has occurred to him that one year's hard labour would have sufficed," but stating that his "object" in making the reference is, "that Mr. Shaw, and other Assistant Magistrates with equal experience," may be instructed that they have sufficient penal jurisdiction finally to dispose of such cases, and that an additional advantage would arise from such instruction, viz. the witnesses would be saved journeys to the Sessions Court.

If Mr. Shaw had, in the first place, followed the letter of the law, instead of allowing himself to be led away by his fancies, and determined that the offence was not gang robbery, or, in the second place, had followed the sound opinion of the Magistrate, he would have saved the Session Judge, the witnesses, and all affected by the proceedings, a great deal of trouble; for it is now suggested by the Session Judge to put the prisoners into the same position in which they were when Mr. Shaw passed sentence upon them on the 16th February.

As the petitioners have appealed to the Sudder Court, the Court do not object to mitigate the punishment, which the Magistrate seems to consider might have been limited by his Assistant's jurisdiction; but what the Session Judge calls the "object" of his reference seems to be superfluous.

A copy of these remarks is to be sent to the Magistrate by the Session Judge.

The Court mitigate the sentence to one year's imprisonment, with hard labour.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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NASSICK.

[Case No. 75 of the Calendar of the Ahmednuggur Sessions Court for 1854. Committed by Dr. S. M. PELLY, Assistant Magistrate of Nassick, on the 3rd November 1854. Tried by Mr. J. W. WOODCOCK, Session Judge, on the 9th and 10th February 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Prisoners.—No. 1, Gunoo wulud Jaojee, Kolee, aged 30.

2, Dhondee wulud Jaojee, Kolee, aged 36.

Escape from Custody after Sentence.

Charge.—Escape from custody after sentence (Regulation XIV. A. D. 1827, Section XXIV., and Regulation V. of 1831, Section I.); in having, in the day-time, on the 11th April 1854, (corresponding with the 3rd Chuitru Shood, Shuké 1776,) in the Ambarkhoord jungle, Talooka Nassick, Zillah Ahmednuggur, while en route from Kownaee to Nassick, for the purpose of undergoing a sentence of twelve months' imprisonment, passed upon them by the Talooka Deputy Magistrate, escaped from the custody of the Police Sepoys who were in charge of them, and ran away to their village.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The case appears to be very clear. It is strange that the prisoners should have been able to get off the handcuff, for it is absurd to suppose it fell off, as stated by the prisoners, without the Sepoys in charge of them, three in number, besides the Havildar, seeing them. It is not probable that they forced it off, nor is it likely that the Havildar, who says he locked the padlock, and kept the key, would have left it unlocked. It may have been that the wards of the padlock were old, and may have easily yielded to any force used by the prisoners to open it. But all these are

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mere conjectures, for the padlock is not forthcoming. The Assistant Magistrate does not venture any opinion that the Havildar and Peons were guilty of any neglect of duty, which might lead the Court to pass a lenient sentence upon the prisoners, nor is any such neglect apparent from the case, though the Court is compelled to admit, that if any such number of Peons connected with the Adawlut establishment had allowed the escape of three prisoners under similar circumstances, the loss of their belts would have been the certain forfeit.

Upon the confessions of the prisoners, corroborated by the evidence recorded in the case, they are found guilty of escape from custody after sentence; in having, in the day-time, on the 11th April 1854, (corresponding with the 3rd Chuitru Shood, Shuké 1776,) in the Ambarkhoord jungle, Talooka Nassick, Zillah Ahmednuggur, while en route from Kownaee to Nassick, for the purpose of undergoing a sentence of twelve months' imprisonment, passed upon them by the Talooka Deputy Magistrate, escaped from the custody of the Police Sepoys who were in charge of them, and ran away to their village.

Read and recorded three former warrants.

The Court passes the following sentence, under the provisions of Section XXIV. Regulation XIV. of A. D. 1827, and Regulation V. of A. D. 1831, Section II.:—

That you, Gunoo wulud Jaojee, and Dhondee wulud Jaojee, Kolees, be imprisoned and kept to hard labour for the period of six (6) months, and that you each receive twenty (20) lashes upon your bare backs, within three months from the date of your imprisonment.

* * * * * *

Ordered, that the handcuff be sent back to the Acting Joint Magistrate, and the blanket be given back to prisoner No. 2 (Dhondee).

The Assistant Magistrate makes the following entry:—

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"*Finding and Sentence.*" The Court remarks that the Assistant Magistrate does not in such cases sentence a prisoner: he commits him to stand his trial before the Session Judge, with whom it rests to sentence him.

Minute recorded by Mr. W. H. Harrison.—I do not see reason to question that the prisoners escaped, and must conclude that they could not have done so, and remained free for a whole day, without gross neglect on the part of their guard.

One month's imprisonment would, in my opinion, be quite sufficient punishment for such an escape; and I would remit the rest of the sentence awarded.

Resolution of the Sudder Foujdaree Adawlut.—The Court remit the lashes, and reduce the imprisonment to one month, with hard labour.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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[Case No. 14 of the Criminal Return of the Magistrate of Poona for December 1854. Tried by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 19th, and confirmed by Mr. E. C. JONES, Magistrate, on the 30th December 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner Babia bin Bhaoosing.]

Prisoners.—No. 1, Keesun *alias* Bundia bin Sakharam, Telee, aged 20.
2, Babia bin Bhaoosing, Purdesee, aged 18.

Robbery by Day, with Force; Aiding in the above Crime; and Receipt of Stolen Property, well knowing it to be such.

Charge.—Robbery with force, by day (Regulation XIV. of 1827, Section XXXVII. Clause 3rd); in that, under date 18th August 1854, (Shrawun Wud 10th, Shuké 1776,) during the day time, in Péta Narayen, of the city of Poona, you forced open the door of the complainant Balaram bin Oodaram's house, and having entered the same, forced a small wooden chest, and abstracted therefrom documents for Rs. 1,056-6-0, and metallic

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Robbery by Day, with Force; Aiding in the above Crime; and Receipt of Stolen Property, well knowing it to be such.

pots, ready money, &c. amounting to Rs. 16-8-0. Furthermore, having entered the adjoining room, belonging to the complainant Sheoram bin Luchmondas, you stole therefrom ready cash, &c. amounting to Rs. 7-5-0.

Against prisoner No. 1, aiding in the above crime (Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section I. Clause 5th); in that, on the aforesaid occasion, you accompanied the principal offenders, and stood sentinel whilst the robbery was being perpetrated.

And against prisoner No. 2, receipt of stolen property, well knowing the same to have been such (Regulation XIV. of 1827, Section XLI. Clause 1st); in that you received into your possession articles worth Rs. 1-11-0, well knowing the same to have been a portion of the aforesaid stolen property.

Both plead not guilty to the first charge; No. 1 pleads guilty to the second charge, of aiding in the robbery; No. 2 pleads not guilty to the charge of receipt of stolen property.

Finding and Sentence by the Deputy Magistrate, confirmed by the Magistrate.—On the 1st of September last, Babia (prisoner No. 2), and one Nundram, were arraigned before the Deputy Magistrate, on a charge of robbery with force, stated to have been perpetrated in the complainant Balaram's house. They were then both discharged for want of proof, and documents worth Rs. 1,056-6-0, forming the greater portion of the property referred to by the complainant, and which were found in the rear of his house, were duly restored to him.

It has been amply proved that a robbery did take place in the complainant's house, and the Deputy Magistrate is inwardly convinced that the prisoners at the bar were the perpetrators. But unfortunately nothing like *tangible evidence* is forthcoming, to carry the crime home to them, and therefore the Deputy Magistrate is reluctantly compelled to record that the first charge, viz. robbery with force, cannot be proved.

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Robbery by Day, with Force; Aiding in the above Crime; and Receipt of Stolen Property, well knowing it to be such.

The second charge preferred against the prisoner Keesun is that of aiding in the above crime. He himself confesses that he accompanied Babia while he was going to commit a robbery in the complainant's house, and that he remained out of the house, and Babia went in and stole a bag. That meanwhile Govinda happened to come up, and he in consequence ran away. This statement is so far corroborated by the occular witness Govinda. He solemnly affirms that the prisoner is the identical person who ran away on the occasion. He suspected a robbery was being committed in the complainant's house, and that he was standing close to it. The charge, therefore, of having aided in the robbery, is proved.

Prisoner No. 2 (Babia) is charged in the second count with receipt of stolen property, well knowing it to have been such. He pleads not guilty, but a portion of the missing property, valued at Rs. 1-11-0, now before the Court, has been found in his house, and proved to belong to the complainants Balaram and Sheoram; and as the prisoner cannot explain how it came to be in his possession, and as, further, he was seen near the complainant's house, when it was robbed, and he himself asserts that he saw Keesun had entered the house to commit a robbery, there can be no doubt about Babia's guilt. Conviction is accordingly recorded against him, of receipt of stolen property, well knowing it to have been such, as set forth in the indictment.

After a mature consideration of the circumstances connected with this case, each of the prisoners is sentenced to imprisonment, with hard labour, for a period of one (1) year. Subject to confirmation by the Magistrate. (Regulation IV. of 1830, Section III. Clause 3rd; Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section I. Clause 5th; and Regulation XIV. of 1827, Section XLI. Clause 1st.)

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Deputy Magistrate is to be told that the prisoners ought to have been convicted of robbery, with force.

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SHOLAPORE.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 22 of the Criminal Return of the Magistrate of Sholapore for November 1854. Tried by Mr. J. A. G. DUFF, Third Assistant Magistrate, on the 13th and 14th November 1854. Reviewed by Mr. T. C. LOUGHNAN, Magistrate, on the 16th December 1854. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Wilful Destruction of the Property of another.

Prisoner.—Chenapa wulud Goopadapa, Wanee, aged 50.

Charge.—Wilful destruction of the property of another (Regulation XIV. of 1827, Section XLII. Clause 2nd); in having, at some time in the month of February 1854, pulled down, and broken the roof, and parts of the house of complainant Kureembhaee wulud Peerbux, situated in Péta Mungulwar, Kusba Sholapore, by pulling off the grass chupper, and heaping on it the earth and stones dug out for the foundation of a wall, to such an extent that the roof broke through, thereby causing damage to the extent of Rs. 10.

Finding and Sentence by the Third Assistant Magistrate.—Prisoner is accused of wanton destruction of the property of another, and pleads not guilty. The evidence for the prosecution goes to prove that prisoner built a wall on some ground which he had purchased, but the houses in this piece of ground were not his, and these he ordered to be pulled down, and buried by rubbish. The 'punchayutnama' states that the ruins appear as if caused by such a proceeding, the result of the wall being built so close, and fixes the entire damage at Rs. 25. Prisoner, on the other hand, acknowledges that the wall was built by him, but that no damage was done to the

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Wilful Destruction of the Property of another.

houses of the other parties. To prove this, he brings forward several witnesses to prove that the rubbish was thrown in an opposite direction, and that the houses fell in the heavy rain. Only the former statement is proved; but the confidence of the Third Assistant Magistrate is considerably shaken in the evidence for the defence, by the inadvertent admission of one of the witnesses for the defence that he had been in conversation with the prisoner on the subject. The prisoner is convicted, and taking all attending circumstances into consideration, the following lenient punishment is awarded him :—

Sentence.—To pay a fine of one hundred (100) rupees, or in default suffer three (3) months' ordinary imprisonment. (Regulation XIV. of 1827, Section XLII. Clause 2nd.)

Part of the fine, if paid, is to be paid to the sufferers, agreeably to the estimate made by the Punchayut, of the loss sustained by them. (Regulation XII. of 1827, Section XIII. Clause 1st.)

Reviewed by the Magistrate.—The punishment awarded in this case is, in the Magistrate's opinion, justly awarded. Prisoner should have sued the occupants of houses, who declined to remove from the ground he had purchased. Instead of this, the subordinate papers show, that with the apparent complicity or connivance of the Joint Police Officer, he proceeded to eject them in his own way, by injuring their property.

The sentence is confirmed.

Resolution of the Sudder Foujdaree Adawlut.—The Court do not consider that the offence of wilful destruction of property is established against the prisoner. The conviction and sentence are annulled, and the fine, if paid, is to be restored, leaving the complainants their remedy by civil action.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

TANNA.

[Case No. 10 of the Criminal Return of the Magistrate of Tanna for December 1854. Tried by Mr. G. S. FORBES, Acting First Assistant Magistrate, on the 29th December 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Returning from Expulsion.

Prisoner.—Bhagee, wife of Sukaram, Brahmin, aged 25.

Charge.—Returning from expulsion (Regulation XII. of 1827, Section XXVIII. Clause 3rd); in having, on the 13th December 1854, (corresponding with Margsheersh Wud 8th, Shuké 1776,) been discovered in the town of Callian, Zillah Tanna, she having been expelled from the Zillah on the 8th August 1854.

The prisoner pleads guilty.

Finding and Sentence by the Acting First Assistant Magistrate.—The prisoner belongs to the Rutnagherry Zillah, but has for some time past been living with a Soldier of the Native Veteran Battalion at Bhewndy, and was a few months back tried for having robbed him of some money, but was discharged for want of proof. Shortly after this, the Officer Commanding the detachment requested the Magistrate to have her expelled the Zillah, as she was a woman of the worst character, and continually creating disturbances in the Lines, and was also strongly suspected of having set fire to some of the Sepoys' houses. She was accordingly required to find security for future good conduct, and failing to provide which, she was dismissed the Zillah.

Her present defence is that she returned to the Zillah to complain of a Tanna Police Sepoy, for having extorted money from her in the Rutnagherry Zillah. It is true that she lodged a complaint against this Sepoy, but she admits that she was told she would receive her answer from the Foujdar of Kurthgaon, and she must

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have been perfectly aware, from the copy of the order of expulsion which was given to her, that she was not to return to this Zillah on any pretext whatever. She states that she returned to Callian on the 11th December, but forgets when she re-entered the Zillah. It does not appear that she made any attempt to bring forward her complaint, and probably had no intention of doing so, except in the event of detection, as an excuse for her return.

The prisoner is informed that she is convicted of having returned from expulsion, and that, in accordance with the terms entered in the order for her expulsion, she is sentenced to suffer six (6) months' ordinary imprisonment, and afterwards to be again dismissed the Zillah. (Regulation XII. of 1827, Section XXVIII. Clause 3rd.)

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Magistrate.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of your Criminal Return for December last, and to request you will have the goodness to report if the husband of the prisoner in Case No. 10 is a native of the Zillah, and resident there.

Reply from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In reply to your letter to my address, No. 337, of the 10th instant, I have the honour to state, for the information of the Court, with reference to Case No. 10 of my Criminal Return for December last, that I have received a report from my Acting First Assistant, as follows :—

" I have the honour to report that the husband of the prisoner in Case No. 84 of my Criminal Return for December last, now deceased, was a Native of the Rutnagherry Zillah, and resided therein. The woman has for several years been kept by a Sepoy of the Native Veteran Battalion at Bhewndy, and was strongly suspected of having robbed some of the Sepoys, and set fire

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to the Lines. She was in consequence expelled the Zillah, on not being able to find security for good conduct."

Precept from the Sudder Foujdaree Adawlut to the Magistrate.—With reference to your letter dated the 21st instant, No. 376, you are hereby requested to certify the papers and proceedings in the case of Bhagee, wife of Sukaram, No. 10 of the Criminal Return for December last, returning this Precept duly executed, or show good and sufficient reason why it has not been executed, with a report of what you may have done in pursuance hereof, within ten days after its receipt.

Return from the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning the within Precept within the specified time, the Magistrate of Tanna has the honour to certify the papers and proceedings in the case of Bhagee, wife of Sukaram, within referred to.

Further Precept of the Sudder Foujdaree Adawlut to the Magistrate.—Granting that there was a necessity for removing the woman from Bhewndy, the order of expulsion is bad in law, since the prisoner, being a native of Rutnagherry, belongs to the Tanna Zillah, and consequently was not amenable to Section XXVIII. Regulation XII. of 1827.

The order of expulsion is therefore cancelled, and the prisoner is to be discharged from custody.

Further Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning the within Precept within the prescribed time, the Magistrate of Tanna begs leave respectfully to observe, that Rutnagherry is not within the Tanna Zillah; he therefore requests that the Court will be good enough, after taking this fact into consideration, to issue such further instructions as it may deem proper.

Further Precept of the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be told that a Zillah is not necessarily limited to the territorial juris-

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diction of the Magistrate; and that, as by Prolcamation dated 18th March 1830, issued in conformity with Clause 2nd Section XVI. Regulation II. of 1827, the Zillahs of the Northern and Southern Konkuns were consolidated into one Zillah, designated "the Zillah of the Konkun," Rutnagherry is within, and not without the Zillah, as his Return sets out; and consequently, there is nothing to reconsider, and no fresh instructions to issue.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In reply to the Court's Precept No. 278, of the 21st instant, forwarding for my information and guidance an extract from the Court's proceedings of the same date, I have the honour to report, for the information of the Judges, the order for the expulsion of Bhagee, wife of Sukaram, in accordance with the Court's directions, has this day been cancelled.

I beg leave, however, very respectfully to point out, that although Rutnagherry is within the Zillah of the Konkun, as far as the jurisdiction of the Judge of the Konkun is concerned, it is not within the Collectorship of Tanna. The term Collectorship is used in Section XVIII. of Regulation XII. of 1827, with reference to the territorial jurisdiction of the Zillah Magistrate, and is there specially applied to cases of expulsion. The distinction between the Zillahs of Rutnagherry and Tanna, as far as the Magistrates are concerned, not only exists, I would respectfully observe, in point of fact, but is expressly recognised in the distribution of villages to these two Zillahs, which is made in Appendix A of Regulation II. of 1834.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be told, that the power of expulsion being granted by Regulation both to the Magistrate and Session Judge, and the territorial jurisdiction of the former being limited to the Collectorship, the term is used in contradistinction to Zillah, over which the

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Session Judge presides, both being of equal extent when the Code was framed.

But the wording of the Section is precise—"not a Native of the Zillah"; and as words declare the intention of the Legislature, they must be taken and construed according to their ordinary meaning. In the present instance, the case is free from any ambiguity, and the only legitimate construction it is capable of is the one the Court have laid down; otherwise a Magistrate might be able to expel a person whom the Session Judge, having the same powers, could not touch—a construction that would lead to injustice and absurdity.

Though the Court differ from the Magistrate in the view he has taken of the law on the subject, they are quite satisfied that Mr. Seton Karr was fully convinced that he was empowered by law to expel the offender.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

SHOLAPORE.

[Case No. 5 of the Calendar of the Sholapore Sessions Court for 1855. Committed by Mr. J. A. G. DUFF, Third Assistant Magistrate, on the 4th January 1855. Tried by Mr. C. M. HARRISON, Session Judge, on the 26th January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Ladlaykhan wulud Chundakhan.]

Fraud in Official Accounts; and Embezzlement of Public Money.

Prisoners.—No. 1, Ladlaykhan wulud Chundakhan, Mussulman, aged 35.
2, Kashee Nursiwuh, Koolkurnee, Brahmin, aged 25.

Charge.—Fraud in official accounts (Regulation XVI. of 1827, Section XXVII. Clause 1st, and Regulation XV. of 1831); in having, on Thursday, the 20th day of October 1853, (corresponding with Breshputwar, Ashwin Wud 3rd, Shuké 1775,) at Hulsungee, in the Indee Talooka of the Sholapore Zillah, with fraudulent inten-

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tion, made a false entry in the village 'khird' or day-book, to the effect that the sum of Rs. 4-7-9 was remitted on the above day and date by the hand of Anunda wulud Lukshmun, Shetsundee Sepoy, to Soobrow Kashee, Acting Mahalkuree, and attached their signatures thereto, the former (prisoner No. 1) as Moolukee Patel, and the latter (prisoner No. 2) as writer of the entry; and again, in having, on Friday, the 21st day of October 1853, (corresponding with Sookurwar, Ashwin Wud 4th, Shuké 1775,) wilfully made false entries adjusting the above amount according (as stated therein) to a Receipt No. 495, signed by the Mahalkuree, of the above date, and attached their signatures to these entries, the former (prisoner No. 1) as Moolukee Patel, and the latter (prisoner No. 2) as Koolkurnee.

And prisoner No. 1 is further charged with embezzlement of public money (Regulation XVI. of 1827, Section XI. Clause 2nd); in having, on Monday, the 17th day of October 1853, (corresponding with Somwar, Ashwin Wud 1st, Shuké 1775,) at Hulsungee, in the Indee Talooka of the Sholapore Zillah, received from Mhadajee Bunajee Rs. 4-7-9, on account of Gopal Gunesham Rs. 3-2-9, and Rujub wulud Mulba Rs. 1-5-0, by whom it was due to Government, and appropriated the same to his own purposes.

Finding and Sentence by the Session Judge.—The prisoners are charged, Nos. 1 and 2 (Ladlaykhan wulud Chundakhan, and Kashee Nursiwuh) with fraud in official accounts, and No. 1 (Ladlaykhan wulud Chundakhan) also with embezzlement of public money, and plead not guilty.

Prisoner No. 1 (Ladlaykhan wulud Chundakhan) does not deny having signed, nor prisoner No. 2 (Kashee Nursiwuh) having written, the items specified in the first charge; but the former states he can only read and write imperfectly, and does not know to what

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prisoner No. 2 (Kashee Nursiwuh) may have made him attach his signature, and the latter says he sent the amount to the Mahalkuree by Anunda, who returned without a receipt, but said it had been promised, and that he therefore left a space blank in the entry for its number, which has been since filled up by somebody else.

Neither of the prisoners calls witnesses in support of his statement, and as it is clearly proved by the evidence of the Mahalkuree, and the Shetsundee, that the amount never was sent to the Thana, as specified in the entries to which the first charge relates, they are both convicted of fraud in official accounts; in having, on Thursday, the 20th day of October 1853, (corresponding with Breshputwar, Ashwin Wud 3rd, Shuké 1775,) at Hulsungee, in the Indee Talooka of the Sholapore Zillah, with fraudulent intention, made a false entry in the village 'khird' or day-book, to the effect that the sum of Rs. 4-7-9 was remitted on the above day and date by the hand of one Anunda wulud Lukshmun, Shetsundee Sepoy, to Soobrow Kashee, Acting Mahalkuree, and attached their signatures thereto, the former (prisoner No. 1) as Moolukee Patel, and the latter (prisoner No. 2) as writer of the entry; and again, in having, on Friday, the 21st day of October 1853, (corresponding with Sookurwar, Ashwin Wud 4th, Shuké 1775,) wilfully made false entries, adjusting the above amount, according (as stated therein) to a Receipt No. 495, signed by the Mahalkuree, of the above date, and attached their signatures to these entries, the former (prisoner No. 1) as Moolukee Patel, and the latter (prisoner No. 2) as Koolkurnee.

Prisoner No. 1 (Ladlaykhan wulud Chundakhan) admits having received the sum of Rs. 4-7-9, but states he made it over to prisoner No. 2 (Kashee Nursiwuh), who said he would take it to the Thana; and as Mhadajee deposes that he paid the amount to prisoner No. 2

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(Kashee Nursiwuh), and not to prisoner No. 1 (Ladlaykhan wulud Chundakhan), who has been committed to take his trial for the offence, he must be acquitted of the embezzlement of public money.

Prisoner No. 2 (Kashee Nursiwuh), having been committed for trial on another charge, sentence against him is deferred.

Prisoner No. 1 (Ladlaykhan wulud Chundakhan) having been convicted, as above recorded, of fraud in official accounts, under the provisions of Regulation XV. of 1831, and Regulation XVI. of 1827, Section XXVII. Clause 1st, the following sentence is passed :—

That you, Ladlaykhan wulud Chundakhan, be imprisoned and kept to hard labour, for six (6) months, and that you thereafter pay a fine of two hundred (200) rupees, or be further imprisoned and kept to hard labour, for six (6) months.

* * * * * *

The Court regrets to have to remark the very careless way in which the second charge against prisoner No. 1 (Ladlaykhan wulud Chundakhan) has been prepared.

In the Third Assistant Magistrate's English proceedings it is made applicable to prisoner No. 1, whereas in his Mahratta it is made applicable to both ; Clause 3rd is entered instead of Clause 2nd ; the year 1854 is entered instead of the year 1853 ; and the names Gunesh instead of Gunesham, and Rajba wulud Janba instead of Rujub wulud Mulba.

The plea of both prisoners is also wrongly recorded : No. 1 is entered as pleading not guilty to the first charge, and both prisoners as pleading not guilty to the second charge.

Had the Assistant Magistrate repeated, at the close of his proceedings, the charges upon which the prisoners were committed to take their trial, these mistakes might have been observed and rectified.

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Resolution of the Sudder Foujdaree Adawlut.—Petitioner admitted in his defence that the item of Rs. 4-7-9 had been received, but the evidence of Mhadajee was to the effect that he paid the money to Kashee (prisoner No. 2), and he could not remember whether the Patel was present or not.

Ladlaykhan was acquitted of embezzlement; and the defence was, therefore, only an admission that the money had been received; and if, as pleaded, he only writes and reads imperfectly, which is a common defect in his caste, he was, in all probability, the dupe of Kashee, who palmed off upon him the Receipt No. 495.

Character ought to have been inquired into, and if favourable, the doubt should have been given in prisoner's favour; and as the fraudulent intention has not been shown, the Court are not satisfied with the conviction, which, with the sentence, are annulled, and the prisoner is to be discharged.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

KHANDEISH.

[Case No. 50 of the Calendar of the Khandeish Sessions Court for 1854. Committed by Mr. T. WEEDING, Assistant Magistrate, on the 14th September 1854. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 16th September 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners Chundun wulud Bala, Pema wulud Sukaram, and Pema wulud Rama.]

Robbery by Night, with Force; and Instigating in the Offence.

Prisoners.—No. 1, Chundun wulud Bala, Pardhee, aged 50.
2, Pema wulud Sukaram, Pardhee, aged 35.
3, Pema wulud Rama, Pardhee, aged 25.
4, Boola wulud Yesoo, Sonar, aged 27.

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Robbery by Night, with Force; and Instigating in the Offence.

Charge.—Against prisoners Nos. 1, 2, and 3, robbery by night, with force; in having, on the night of Friday, the 7th July 1854, (corresponding with Ashad Shood 12th, Shuké 1776,) at Paldhee, Talooka Jamnair, Zillah Khandeish, taken by force from Sutwa wulud Mahadoo, servant of Vishwunath wulud Kondajee, goldsmith, gold and silver ornaments, and pearls, to the value of Rs. 1,694-5-9, of which about Rs. 1,382-3-9 worth have been recovered; thereby rendering themselves amenable to the provisions of Regulation XIV. of 1827, Section XXXVI. Clauses 1st and 3rd.

And against prisoner No. 4, instigating in the above offence; in having, on the abovementioned date, at Ozur Boozrook, Talooka Jamnair, Zillah Khandeish, instigated the above three prisoners to commit this robbery, thereby rendering himself amenable to the provisions of Regulation XIV. of 1827, Section I. Clause 5th.

The charges having been read and explained to the prisoners, they plead, prisoners Nos. 1, 2, and 3, guilty, and prisoner No. 4 not guilty.

Finding and Sentence by the Session Judge.—The Court, on reviewing the evidence taken, is of opinion that the evidence of the witnesses Nos. 4, 5, 6, and on his own confession, No. 8, the prisoner No. 1 (Chundun wulud Bala) is convicted of robbery by night, with force; in having, on the night of Friday, the 7th July 1854, (corresponding with Ashad Shood 12th, Shuké 1776,) at Paldhee, Talooka Jamnair, Zillah Khandeish, taken by force from Sutwa wulud Mahadoo, servant of Vishwunath wulud Kondajee, goldsmith, gold and silver ornaments, and pearls, to the value of Rs. 1,694-5-9, and that on the confessions of prisoner No. 2 (Pema wulud Sukaram) and prisoner No. 3 (Pema wulud Rama), corroborated by the fact of the articles found in the house of Eshwunt, the brother of prisoner No. 1 (though the Court has no evidence to inculpate him, Eshwunt), and from the

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Robbery by Night, with Force; and Instigating in the Offence.

evidence of the witnesses Nos. 2 and 3, that three men were present at the robbery, they also (prisoners Nos. 2 and 3) are convicted of robbery by night, with force, at the time, place, and manner set forth in the indictment; and the Court proceeds to pass the following sentence:—

That you, Chundun wulud Bala, do undergo five (5) years' imprisonment, with hard labour.

And you, Pema wulud Sukaram (prisoner No. 2), and Pema wulud Rama (prisoner No. 3), do undergo each of you three (3) years' imprisonment, with hard labour, agreeably to the provisions of Regulation XIV. of 1827, Section XXXVII. Clauses 1st and 3rd.

* * * * * *

And with regard to prisoner No. 4 (Bala wulud Yesoo), the Court acquits him of the charge of instigating in the offence, and he is ordered to be discharged.

Resolution of the Sudder Foujdaree Adawlut.—The sentence on Chundun is mitigated to three years' imprisonment, with hard labour, as there does not appear any reason for punishing this prisoner more severely than the other two.

The petition of the other prisoners is rejected.

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BELGAUM.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 3 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. A. E. D. GREY, Third Assistant Magistrate of Belgaum, on the 1st January 1855. Tried by Mr. A. W. JONES, Session Judge, on the 3rd January, and 20th, 21st, and 22nd February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder; and Aiding in Murder.

Prisoner.—Hunma bin Ayapa, Bedur, aged 30.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, on the night of Wed-

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Murder; and Aiding in Murder.

nesday, the 23rd August 1854, (corresponding with Shrawun Wud 30th, Shuké 1776,) in company with one Mansaya, and others, entered the village of Somlapoor, in the Hoongoond Talooka, in the Belgaum Division of the Dharwar Zillah, and while there for an unlawful purpose, (Bheema Shetsundee having been killed by one of their number,) in having murdered the said Bheema.

The prisoner is also further charged with aiding in murder (Regulation XIV. of 1827, Section XXVI. Clause 1st, and Section I. Clause 5th); in having, on the night of Wednesday, the 23rd August 1854, (corresponding with Shrawun Wud 30th, Shuké 1776,) in company with one Mansaya, and others, entered the village of Somlapoor, in the Hoongoond Talooka, in the Belgaum Division of the Dharwar Zillah, for an unlawful purpose, and while there, having by his presence and example aided and abetted the said Mansaya in committing the murder of one Bheema, of the same village.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and in a second count with aiding in murder, and pleads not guilty.

It appears, that on Wednesday, the 23rd August last, when two Shetsundees of the village of Somlapoor were going their usual rounds, late at night, they perceived two persons standing up by the fort wall, who, on being called to, instead of answering, threw a stone and struck one of them, and the other Shetsundee immediately replied to this by a blow with a stick, and a scuffle ensued, in the course of which one of the Shetsundees being severely wounded, called to his companion, and he (witness No. 2), leaving the man with whom he was engaged, came up to his assistance, and struck his friend's antagonist twice with his sword, his own immediate opponent taking the opportunity to escape.

On the alarm being given, and lights brought, it appeared that Bheema, the wounded Shetsundee, was very

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badly hurt, as was the person with whom he had been fighting. In the course of the inquiries by the Police Patel and others, on that night, a dagger and a sheathe were found near the spot where the scuffle took place, and next morning, again, another dagger or knife, and a part of a man's ear, freshly cut off, were also found near the same place.

On information given by the wounded man, who was captured, a Sepoy was sent off with some Shetsundees to the village of Gairgutee, in His Highness the Nizam's Dominions, and there Hunma, the prisoner at the bar, was arrested; and it was found that he had a wound on the left ear freshly made, and other cuts on the neck and hand; and it appears, also, that he admitted he had been on the night in question at Somlapoor.

Before he could be brought back to Somlapoor, however, his companion, who had been seized there, and whose name was Mansaya, died of his wounds; and it appears that neither of the Shetsundees engaged in the scuffle during the night were able to identify him or the prisoner Hunma, on account of the darkness.

But on being shown the naked dagger, the prisoner admitted it was his, and in his statement before the District Police Officer of Ilkul, he fully admitted having come some nights before to Somlapoor, with the deceased Mansaya, and two others, with the intention of robbing any one or any house that offered, and that he and Mansaya had been engaged on that night in a personal conflict with two men, in the course of which he received several cuts, one of which sliced off all the upper part of his left ear. This statement he also admitted before the Assistant Magistrate, and before the Court.

In the Inquest Report, proved before the Court, it is shown that Bheema, the Shetsundee, died of certain cuts and wounds, and it appears he died twelve days after having received them; and from the evidence of the surviving Shetsundee, it appears that these wounds

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had been inflicted by Mansaya, the man who died of his wounds; so that the prisoner does not seem to have had any personal share in causing the death of Bheema.

But he admits that he had come to Somlapoor with three other persons, with the intention of committing a robbery, and that in the night on which it was planned to carry out this unlawful act, he and one of his companions were challenged by two Shetsundees, in the course of their duty of patrolling the village at night, and that instead of answering this challenge, his companion threw a stone at them, and that then a scuffle arose. It does not, therefore, appear that the death of the Shetsundee was caused in the perpetration of the particular unlawful act for which they had come to the village, since that had not gone further than intention; and therefore the Session Judge has some doubt as to whether the law, as quoted by the Assistant Magistrate, is applicable; but the Session Judge thinks that this attack on Shetsundees when in the performance of their duty was equally an unlawful act with the robbery, which was intended, and therefore is of opinion that the prisoner having been engaged in it, must be considered as equally responsible for the murder as Mansaya, by whose hand it was committed; and therefore convicts him, the said Hunma, of murder; in having, on the night of Wednesday, the 23rd August 1854, (corresponding with Shrawun Wud 30th, Shuké 1776,) in company with one Mansaya, and others, entered the village of Somlapoor, in the Hoongoond Talooka, in the Belgaum Division of the Dharwar Zillah, and while there for an unlawful purpose, (Bheema Shetsundee having been killed by one of their number,) in having murdered the said Bheema.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXVI. Clause 4th of 1827, the following sentence is passed:—

That you, Hunma bin Ayapa, be transported across

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the seas, for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

The prisoner having been convicted of murder, the second count falls to the ground.

Minute recorded by Mr. M. Larken.—I think the prisoner has been properly convicted of murder. There is no doubt that the two Shetsundees were on their patrol; that they fell in with four persons who had come to commit a robbery; that they challenged these persons, one of whom flung a stone at the Shetsundees; that the latter attempted to apprehend two of these persons, and were resisted in the attempt; that one of the Shetsundees was slain in the attempt to apprehend, by the deceased Mansaya, and that the prisoner, who was one of Mansaya's companions, resisted the other Shetsundee; and it is laid down as a general rule, that "where persons having authority to arrest or imprison, using the proper means to that purpose, are resisted in so doing, and killed, it will be murder in all who take part in such resistance."*

I would sentence the prisoner to a term of solitary imprisonment, with flogging.

Minute recorded by Mr. W. H. Harrison.—It appears from the prisoner's confession, corroborated as it is by the wound on his person, and the fact that the naked dagger he acknowledges as his own was found on the spot where the conflict took place with the Shetsundees, in which one of them lost his life, that he was present and engaged in that conflict. He was rightly, therefore, convicted of murder, and the sentence should be confirmed.

Resolution of the Sudder Foujdaree Adawlut.—Conviction confirmed, and sentence referred to a third Judge.

Minute recorded by Mr. A. Remington.—The death of Shetsundee Bheema was found to be the act of Narunjee, an accomplice of the prisoner, who has since died of the wounds received on the occasion. Had the

* Russell, Vol. I. page 535.

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conviction been the point referred to me, I should have inclined to the opinion that the evidence was scarcely sufficient to show a common design to resist apprehension, and under that view, I must concur in the mitigation of the punishment proposed by Mr. Larken.

Final Resolution of the Sudder Foujdaree Adawlut.—The prisoner is sentenced to a flogging of twenty-five (25) stripes, and six (6) months' solitary imprisonment.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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TANNA.

[Petition of Ameer wulud Koodbodeen to the Sudder Foujdaree Adawlut, praying that the fine of Rs. 50, imposed upon him for having failed to act up to the terms of the Security Bond, may be annulled. Referred to the Magistrate of Tanna, Mr. G. B. SEATON KARR, for Report, on the 14th February 1855.]

Forfeiture of Security Bond.

Decision of the Acting First Assistant Magistrate.—Ameer wulud Koodbodeen, caste Mussulman, religion Mahomedan, aged forty-five, inhabitant of Bhewndy, Talooka Bhewndy, is this day received from the Joint Police Officer, Kusba Bhewndy, and is informed, that whereas he, under date of the 7th November 1854, entered into a security bond that he would be responsible for the appearance of one Shahoo wulud Kanoo, Memon, when called for by the Joint Police Officer of Bhewndy, to answer a charge of serious assault preferred against him, and would forfeit the sum of Rs. 50, to be commuted, in case of non-payment, into imprisonment for three months, if the said Shahoo failed to appear: on the 11th November, Shahoo was summoned, and failed to appear; and in consequence of which, the security entered into by Ameer became forfeited.

Ameer wulud Koobodeen, admitting having entered into the security, and also that Shahoo failed to appear when summoned, after having his security bond read

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over to him, the Acting First Assistant Magistrate informs him that his security is forfeited, and that he must pay the fine therein stated, Rs. 50, or be imprisoned for three months. (Regulation XII. Section XXVI. Clause 2nd.)

Reviewed by the Magistrate on Appeal, on the 4th January 1855.—Petition rejected.

Substance of a Petition from Ameer wulud Koodbodeen.—I became security for one Shahoo wulud Kanoo, in a case of assault, and passed a bond for Rs.50 fine, in the presence of the Joint Police Officer. Subsequently the Joint Police Officer reported that he would decide the case ; but it took a long time to obtain an order. In the interval, the prisoner attended at the Kutchery daily, and he was present at the Kutchery on the 11th Nov. 1854, and went home after 4 o'clock. At about 5 o'clock a Sepoy was sent to call the prisoner on the said date, in the evening, after the Kutchery was closed. The Sepoy came and informed me that the prisoner was not present, and that I should produce him ; thereupon I made inquiries, and ascertained that the prisoner had gone to Tanna. I immediately went to Tanna, although it was night, and produced the prisoner on the 12th instant, at Office hour. My answer was taken on the 13th, and on the 15th a sentence of Rs. 12 fine was passed against the prisoner, and I was sent to the Hoozoor. The First Assistant Magistrate, without making any inquiry, or hearing any witnesses, fined me Rs. 50 at once ; consequently I preferred an appeal to the Magistrate, which was rejected on the 4th of January 1855. I therefore beg to state—

The Officers on the Police Establishment, and the Joint Police Officer himself, know that the prisoner attended daily at the Kutchery, as long as the case was pending, on account of the report made to the First Assistant.

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The prisoner was present on the day of trial, and no obstruction occurred in the inquiry.

For the enforcement of the security bond, a reference ought to have been made to the Hoozoor, and on receiving an order the case ought to have been prepared and sent; but nothing of the sort was done.

The Joint Police Officer and the Sheristedar are intimate friends, and I am at enmity with the Sheristedar, consequently I was fined without any cause. In January 1855, the Police Officer of this place prepared a case against the security of a prisoner of Talooka Moorbad, who was absent for a space of twenty days, and caused obstruction to justice; but he was set at liberty by the First Assistant, and the same functionary has fined me. It was through enmity that I was fined.

The prisoner went to Tanna in the evening, and I produced him the next day at the Office hour.

I therefore pray that the papers of my case, as likewise the case I have alluded to, may be sent for, and an order passed to refund the fine, which has been imposed on me without any cause.

Precept issued by the Sudder Foujdaree Adawlut.—The Magistrate is to be requested to report upon the petition, with reference to the allegations it contains, as it does not appear from the proceedings that the surety was called upon for any explanation.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning the Precept within the prescribed time, the Magistrate of Tanna has the honour to state that he has received a report from his Acting First Assistant, Mr. G. S. Forbes, as follows:—

With reference to the Precept of the Sudder Adawlut, dated 7th March 1855, the Acting First Assistant Magistrate has the honour to report, that when the petitioner was asked for his explanation at the trial, he stated that the person for whom he stood security was not present

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on the first day he was called up for trial by the Joint Police Officer at Bhewndy, and that he (petitioner) was aware that he had gone off to Tanna, and did not inform the Police of it, but went there and brought him back.

Petitioner makes the following allegations, which are explained as follows :—

The prisoner (*i. e.* the person for whom he stood security) was present every day at the Joint Police Officer's Kutchery during the time the case was post-poned, and referred to the Assistant Magistrate.	This may have been the case, but the petitioner has admitted that the prisoner was absent on the day he was wanted for trial.
The prisoner was present on the day of the trial.	Ditto.
The prisoner went to Tanna in the evening, and he (petitioner) brought him back to Bhewndy at the usual Office hour on the following day.	Ditto.
The Joint Police Officer committed the case without previously obtaining an order from the Hoozoor to do so.	It is not necessary to receive such an order.
The Joint Police Officer and the Sheristedar are great friends, and he (petitioner) believes them to be his enemies, and that he has been fined by their means, because last January the Assistant Magistrate dis-	In the case here referred to, the surety gave information to the Police Amuldar, that the person for whom he stood security had absconded, and then went and brought him back. The wording, also, of this

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missed a case of forfeiture of security bond, and has fined him for the same offence.

security bond was not according to the prescribed form.

The papers and the petition received with this Precept are herewith returned.

Resolution of the Sudder Foujdaree Adawlut.—Petitioner not being present for the third time, his petition is struck off.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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KHANDEISH.

[Case No. 13 of the Calendar of the Khandeish Sessions Court for 1855. Committed by Mr. T. WEEDING, Assistant Magistrate, on the 29th January 1855. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 3rd February 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Robbery by Night, with Force.

Prisoners.—No. 1, Gunzia wulud Nuthoo, Bheel, aged 25.
2, Luxia wulud Lahanoo, Bheel, aged 20.
3, Jairam wulud Bhewsain, Bheel, aged 20.
4, Mahomed Khan wulud Aluf Khan, Mussulman, aged 30.

Charge.—Robbery by night, with force; in having, on the night of Friday, the 22nd December 1854, (corresponding with Poush Shood 3rd, Shuké 1776,) near Pimprola, Talooka Nusseerabad, Zillah Khandeish, forcibly taken from Narayen wulud Nuvalram three golden and two silver ornaments, and cash Rs. 4-4-0, value in all Rs. 264, thereby rendering themselves amenable to the provisions of Regulation XIV. of 1827, Section XXXVI. Clauses 1st and 3rd.

The charge having been read and explained to the prisoners, they all plead guilty.

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KHANDEISH.

Robbery by Night, with Force.

Finding and Sentence by the Session Judge.—The Court, on examining the evidence on this trial, is of opinion that the statements made by the prisoners are correct, and voluntarily given ; and though the evidence of the complainant is worth little, except to recognize the prisoner No. 4 (Mahomed Khan) as his servant, on whom he makes no charge, and of whom he distinctly stated he did not believe him to be implicated, yet the man Mahomed Khan appears to have produced Rs. 10 which he says he received from the other three prisoners, whose statements are unanimous in asserting that he, Mahomed Khan, (prisoner No. 4) instigated them, prisoners Nos. 1, 2, and 3 (Gunzia, Luxia, and Jairam) to rob his master Narayen (and was present when Narayen was robbed by the above three prisoners), on his return from collecting money, and the articles they took from him are partly in Court, a silver waistband, recognized by the complainant Narayen (witness No. 1), and partly rings of gold, and Rs. 10, which correspond with the statements made by evidence Nos. 1, 2, and 3, with regard to articles which prisoners Gunzia, Luxia, and Jairam confess they robbed Narayen (complainant) of. These statements involve the interest of prisoner No. 4 (Mahomed Khan), but as he has made a statement confessing the part he had taken, and is supposed in support of that statement to have produced Rs. 10, his share of the proceeds of the robbery before the Court, the four prisoners must, this Court is of opinion, be considered convicted of robbery by night, with force ; in having, on the night of Friday, the 22nd December 1854, (corresponding with Poush Shood 3rd, Shuké 1776,) near Pimprola, Talooka Nusseerabad, Zillah Khandeish, forcibly taken from Narayen wulud Nuval-ram three golden and one silver ornaments, and cash Rs. 4-4-0, value in all Rs. 264, on their own confessions, corroborated by the statement No. 2 of Bhugwan, Patel of Pimprola, who received from the three prisoners

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Gunzia, Luxia, and Jairam, certain golden ornaments, of part of which he had rings made, and for the remaining article he received, according to his own statement, Rs. 33-8-0, which he gave to prisoners Nos. 1 and 3 (Gunzia and Jairam), and kept by him the waistband identified by the complainant in his evidence No. 1. The Court may remark that his evidence, and that of Poonjco wulud Dhondoo (Exhibit No. 4), were very prevaricating, but still the facts above stated were elicited. On the evidence, and with this opinion, the Court proceeds to pass the following sentence, premising that the circumstances detailed in evidence and confessions involve the prisoner No. 4 (Mahomed Khan) with commission of robbery by night, with force, though the part he took is only that described in Clause 2nd Section XXXVI. Regulation XIV. of 1827:—

That you, Gunzia wulud Nuthoo (prisoner No. 1), Luxia wulud Lahanoo (prisoner No. 2), Jairam wulud Bhewsain (prisoner No. 3), and Mahomed Khan wulud Aluf Khan (prisoner No. 4), having been convicted on your own confessions, supported by evidence Nos. 2 and 3 before this Court, of robbery by night, with force, do undergo each of you three (3) years' imprisonment, with hard labour, agreeably to the provisions of Regulation XIV. of 1827, Section XXXVII. Clauses 1st and 3rd.

Minute recorded by Mr. W. H. Harrison.—In this case the prisoners appeal against the sentence awarded to them for a robbery, to which they pleaded guilty.

I do not see cause to interfere, and would reject the appeal.

As the prisoners pleaded guilty, it was superfluous in the Session Judge to proceed with the trial as if a contrary plea had been entered, by taking evidence, and putting the accused on their defence. The course prescribed in the Regulations should have been followed.

Resolution of the Sudder Foujdaree Adawlut.—The

petition is rejected; and the attention of the Session Judge is directed to the procedure ordered by the Regulations in a case when the prisoner pleads guilty.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

KAIRA.

[Case No. 4 of the Criminal Return of the Magistrate of Kaira for December 1854. Tried by Mr. W. F. A. SPRY, Deputy Magistrate, on the 18th October and 1st December 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Bribery.

Prisoner.—Bechur Bajee, Banian, aged 34.

Charge.—Bribery (Clauses 2nd and 3rd Section XI. Regulation XVI. of 1827, and Regulation V. of 1833); in that he, being entrusted with the collection of the 'vera' or cess upon houses, &c. in the town of Kaira, Zillah Kaira, one day during the cold season of 1854, (Sumvut 1910,) precise day or date unknown, in the day time, in Umkapoora (hamlet), of Kaira, did take a present of Seeasyee Rs. 6 from one Chutoor Deweesing, the said present having been given as a bribe to secure the aid of the prisoner (Bechur) to exempt him (the complainant) from the payment of vera.

The prisoner pleads not guilty.

Finding and Sentence by the Deputy Magistrate, confirmed by the Magistrate.—The prisoner Bechur Bajee, the head Patel and Oograthdar, or Collector of the Revenues of Kaira, is charged by one Chutoor Deweesing with having taken, some time during the cold season last year, Seeasyee Rs. 6 from him, with the understanding that he would have him exempted from the payment of the vera or cess on his two houses, situated in Umkapoora, of Kaira. Three witnesses have deposed to this accusation. Witness No. 2 states that the prisoner came one evening some time during the last cold

season to the house of the witness No. 3, in his neighbourhood, and called the complainant, who lives close by, and asked him for Rs. 6, and told him, if he would give him the amount, he would have him exempted from paying the vera on his house, and that he (the complainant) immediately went home, and brought the money, and gave it into the prisoner's hand; and he (the prisoner) made the complainant swear on his god that he would not tell any one. Witnesses Nos. 3 and 4 say they were present at the time, and saw the complainant give the prisoner the money, and that they heard the nature of the conversation between them, regarding the purpose for which it was given.

The prisoner, in his defence, denies having received a bribe from the complainant, and states that the charge has been got up by the complainant and his witnesses, who are at enmity with him; that it is made up in revenge for not having granted them remissions on account of the failure of their crops; and to prove this, the prisoner called four witnesses. The statements of Nos. 7, 8, and 9 are most improbable, and contradictory. The Deputy Magistrate has seldom seen such barefaced prevarication and falsehood, and considers them wholly unworthy of credit.

After the evidence for the defence was closed, the prisoner gave in a petition that he had other witnesses to produce, and that they should be called and questioned, and they were accordingly called, and their depositions taken.

Witnesses Nos. 12 and 13 state that one day, about 3 or 4 P. M., in Bhadrupud Wud, Jeysing Purbhoodas and Chutoor both came to them, and told them to speak to the prisoner to grant them remissions, and if he did not that they would complain against him. They say they have no dealings with either Jeysing or Chutoor, and do not know the latter; so it is not likely that they

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would go and tell such a thing to persons with whom they are not properly acquainted. This they say was told them by Jeysing and Chutoor in the month of last Bhadrupud Wud, which corresponds with September last. During the whole of Bhadrupud Wud these two persons, Jeysing and Chutoor, were with the Deputy Magistrate in the Districts, so their statements are evidently false.

The other four witnesses, Nos. 14 to 17, state that the prisoner had been mourning for the death of his relations for the last three or four years, and therefore wore a white turban until last August; but they all vary in their statements, and Kustoor Panachund (witness No. 14) and Purbhoodas Eswur (witness No. 16) are both related to the prisoner, and Rutunsee Gokulsee (witness No. 15), of the same caste (Shrawuk Wania) as the prisoner, and Sultan Sing Guraseea (witness No. 17) is an intimate friend of the prisoner's, and they will naturally speak in his favour, and therefore no reliance can be placed in their statements.

Kupoorchund Dewchund (witness No. 18) states that Jeysing and Chutoor came to him about fifteen or sixteen days ago, and Jeysing asked him to enter into his 'chopra' an item of Rs. 6 as having been borrowed by Jeysing of him, and given to the prisoner; whereas the prisoner states in his petition (recorded under No. 11) that Chutoor, and not Jeysing, went to witness' shop to get the item entered in his chopra. Chutoor states in his deposition, dated 16th October last, about a month and a half ago, that he gave the prisoner Rs. 6 from the savings of his pay, so that there was no necessity for his doing so a month after having complained; and had he and Jeysing gone to Kupoorchund's for that purpose, they would have told Kupoorchund to put the item down in Chutoor's name, and not in that of Jeysing, he (Chutoor) being the complainant, so there is not the least doubt he has been put up to give such evidence. Kupoorchund

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is well known to be a person of an intriguing and bad character; and complaints have been frequently made against him, and therefore he is unworthy of credit.

This is not the first time that charges of this nature have been preferred against the prisoner, and suspicion has been strong against him for a long time. He has once or twice been put on his trial for similar acts of bribery and extortion.

The Deputy Magistrate is of opinion that the charge of bribery against the prisoner is fully proved; and sentences him to pay a fine of one hundred (100) rupees, or be imprisoned for six (6) months, without labour, agreeably to Clauses 2nd and 3rd Section XI. Regulation XVI. of 1827, and Regulation V. of 1833.

Sentence subject to the confirmation of the Zillah Magistrate.

From the above proceedings, it is evident that the prisoner is not a trustworthy person, and unfit to be entrusted with the collection of the public money; but whether he should still retain the place of Oograthdar or not, it remains with the Collector to determine.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to certify the papers and proceedings, together with his report upon the allegations in the petition regarding the connection between the Deputy Magistrate, complainant, and witnesses.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning this Precept, together with its accompaniment, the Acting First Assistant Magistrate in charge begs to certify the papers and proceedings held in the case in which petitioner has been convicted and fined, and at the same time to submit a report, dated the 22nd March 1855, from the Hoozoor Deputy Magistrate, on the allegations set forth in the petition.

Letter from the Deputy Magistrate to the Acting First

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Assistant Magistrate.—With reference to your endorsement No. 87, of the 21st instant, and its accompaniments (herewith returned), I beg to report as follows:—

With regard to what Bechur Patel states in his petition to the Sudder Foujdaree Adawlut, that the depositions of the complainant (Chutoor Deweesing) and his witnesses (Jeysing Purbhoodas and Kala Roeejee) were not taken in his presence, I beg to state, that when a complaint is made against a party, it is very necessary that inquiries should be instituted, to ascertain whether there be grounds for accusation, as, if not, that the accused may not be seized and charged with the crime wrongfully; and therefore, to prevent such occurring in the case of Becher Patel, I thought it advisible to take the depositions of the complainant, and his witnesses, before calling on Bechur Patel to answer to the complaint made against him; and though Bechur Patel's presence was not needed till the preliminary investigation into the matter was completed, yet I inquired for him, but he was not to be found. However, on finding that the charge could be sustained by the evidence for the prosecution, I summoned Bechur Patel, and had the depositions of the complainant and his witnesses read over to, and confirmed by them, in his presence, and Bechur at the time put many questions to them, as will be seen on a reference to the proceedings in the case.

The assertion of Bechur Patel that one of the complainant's witnesses (Jeysing Purbhoodas) is my 'Ghareewan,' is a falsehood, as the man was never in my service. His bullocks were *hired* to take my travelling cart to the Tansra Districts, and that was long before Bechur Patel's trial took place.

As the prosecutor was in my service when he complained against Bechur Patel, I thought that if I were to try him, and he be convicted and punished, it might afford him an excuse to appeal against my decision;

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I therefore forwarded the case to the Magistrate, to be disposed of as he deemed proper; but it was returned to me by him, with an order that I should decide it. The Guzeratee memorandum forwarding the case to the Magistrate will be found among the miscellaneous Guzeratee papers connected with the case.

The Goozeratee and English papers in the case in question are herewith forwarded.

Minute recorded by Mr. A. Remington.—It appears to me scarcely credible that any Officer should demand and accept a bribe in the presence of several persons capable of deposing to such delinquency, and who came forward immediately afterwards to testify against him.

Complainant's position was that of a revenue defaulter; and yet, upon the suggestion of the Patel, he readily produced Rs. 6 to procure an exemption from the future payment of the vera tax. He was not asked what he understood by "exemption," and what were the grounds for his supposing a Patel could command such influence.

The Deputy Magistrate was wrong in having taken the evidence in the absence of the accused. Complainant should have been sworn to the truth of his charge, and the inquiry should have proceeded in the usual way, in presence of both parties.

The conviction was confirmed without remark by the Magistrate, and the Patel's character is said to have laid him open to suspicion; and the appreciation of evidence, it may be urged, rests with the trying Authority. Allowing this to be so, yet, as the evidence fails to satisfy my mind of the prisoner's guilt, I should like the case to be referred to a full Court, in the event of my brother being for upholding the conviction.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled, and the fine, if paid, is to be returned to petitioner.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

AHMEDNUGGUR.

[Petition of Wasdeo oorf Mo'nunjeeraz Juggunath, praying that an Order of the Magistrate of Ahmednuggur, Mr. W. J. TURQUAND, allowing a neighbour to raise a building close to his house, may be set aside. Referred to the Magistrate for report, on the 10th January 1855.]

Local Nuisance.

Return of the Magistrate to a Precept of the Sudder Foujdaree Adawlut.—The Acting Magistrate has delayed his report that he might take the first opportunity of personally inspecting the spot. Petitioner's house is at the top of the street, and at right angles to it. Bapoo Ramkrishna, who petitioner complains against, has the next house to petitioner, but parallel with the street, and has built over the street gutter a masonry 'ota,' whereby he has moreover taken in more than a foot of the public road. To this trifling extent petitioner's right of way is certainly impeded, and his view of the street is less unobstructed than before. But no inconvenience of any consequence is at present experienced by petitioner. The Acting Magistrate, Mr. Bell, appears, on consideration of the expense incurred by Bapoo Ramkrishna, in building the ota pucka, to have waived the right to make him give up at present the foot of ground encroached upon, with the proviso, however, that if the ground should in future be required by Government, no bar should be constituted by present proceedings to its recovery. Bapoo Ramkrishna, on the spot where he has now built the ota, was building a privy, the erection of which would have been a downright nuisance to petitioner; so, on petitioner's remonstrance, he was compelled to desist. Were Bapoo Ramkrishna to erect a 'chuppur' over the ota, it would also give petitioner grounds for complaint, as obstructing his view, and therefore precautionary measures have been taken against Bapoo Ramkrishna attempting any

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AHMEDNUGGUR.

Local Nuisance.

such measure. The Acting Magistrate begs respectfully to suggest, that present arrangements should not be interfered with; leaving to petitioner, however, the right of making any representation he may like in the matter to the municipality about to be established in the town of Ahmednuggur.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the petitioner is rejected.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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DHARWAR.

[Proclamation issued by Mr. T. OGILVY, Magistrate of Dharwar, and referred by Mr. M. J. M. STEWART, Acting First Assistant Magistrate in charge, to the Sudder Foujdaree Adawlut, on the 15th December 1854.]

Proclamation by the Magistrate.

Translation of Proclamation.—Whereas all inhabitants of the Dharwar Zillah are in the habit of satisfying the calls of nature on the public streets and lanes, and allowing heaps of rubbish and filth to accumulate around and in front of their houses, which nuisances tend to create fever, ague, cholera, and other diseases: therefore be it known to all persons, that from the date of this Proclamation, anybody found committing the above offences, or if found to allow of the accumulation of stagnant water from bathing-places, &c. around their houses, or if they do not every day clean these places, such persons will be be punished according to the Regulations. Understand this every one, and obey this order.

Letter from the Acting First Assistant Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward, for the information of the Sudder Foujdaree Adawlut, copy of a written notice, conveying an injunction to secure the removal and prevention of nuisances in the streets and lanes of the towns and villages of this Collectorate.

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DHARWAR.

Proclamation by the Magistrate.

Memorandum of the Registrar of the Sudder Foujdaree Adawlut to the Magistrate.—The accompanying Canarese Notice, forwarded with his letter of the 15th instant, No. 2130, is returned to the Acting First Assistant Magistrate in charge, Dharwar, in order that it may be submitted to the Court with a translation.

Reply of the Magistrate to the Memorandum of the Registrar of the Sudder Foujdaree Adawlut.—In compliance with the request contained in the Registrar of the Sudder Foujdaree Adawlut's Memorandum No. 3138, dated 21st instant, the Magistrate begs to furnish an English translation of a Proclamation proposed to be issued for the removal and prevention of nuisances in the streets and lanes of the towns and villages of this Collectorate.

The Canarese Proclamation is herewith returned.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report whether he approves of this Proclamation. It appears to the Court to attribute to the whole of the inhabitants of the Zillah, collectively and individually, habits which the Court imagine can only, with justice, be imputed to perhaps a majority. The Court would suggest to the Magistrate whether the Proclamation to be found in Circular Order No. 426 would not be more suitable to the occasion than the one submitted.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In return to the within Precept, it is hereby certified to the Judges of the Sudder Foujdaree Adawlut, that as the Proclamation contained in the Court's Circular Order No. 426 appears sufficiently to provide for the object intended, it will be promulgated for general information and observance in this Collectorate.

Further Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be

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DHARWAR.

Proclamation by the Magistrate.

requested to certify, for record, a copy of the Proclamation he would now propose to issue.

Further Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In return to the within Precept, is is hereby certified to the Judges of the Sudder Foujdaree Adawlut, by forwarding copy of the Proclamation, as called for in their extract of proceedings, which accompanied it.

Proclamation of the Magistrate.—Be it known to all the inhabitants of the Zillah of Dharwar, that persons are in the habit of obeying the calls of nature in the public streets and lanes, and of throwing out filth in the vicinity of their houses, from which fevers, cholera, and other diseases are caused ; and that all persons are warned, that from the date of this Proclamation, parties committing the above offences will be punished according to law. Let all persons act in conformity with the above injunctions.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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TANNA.

[Translations of two Injunctions issued by Mr. L. REID, Magistrate of Colaba, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 27th March 1855.]

Injunctions issued by a Magistrate.

Translation of an Injunction under Regulation XII. of 1827, *Section XIX. Clause 6th.*—Parties are hereby informed, that they are strictly prohibited from taking their carts or cattle over the road now in course of construction from Kolad to Rohé, until its completion.

Any one acting contrary to this Proclamation will be punished according to law.

Translation of an Injunction under Regulation XII. of 1827, *Section XIX. Clause 6th.*—Parties are hereby

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TANNA.

Injunctions issued by a Magistrate.

informed, that they are strictly prohibited from taking their carts or cattle over the road now in course of construction from Dhurumtur to Poenar, until its completion.

Any one acting contrary to this Proclamation will be punished according to law.

Letter from the Joint Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In compliance with the provisions of Clause 6th, Section XIX. Regulation XII. of 1827, I have the honour to forward to the Court of Sudder Foujdaree Adawlut copies and translations of two injunctions this day issued by me.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

RUTNAGHERRY.

[Case No. 4 of the Criminal Return of the Magistrate of Rutnagherry, for February 1855. Tried by Mr. J. H. TROTT, Deputy Magistrate, on the 2nd and 6th February 1855. Proceedings submitted for the final orders of the Sudder Foujdaree Adawlut, by the Session Judge.

Receipt and Concealment of Stolen Property, knowing, or having evident grounds for believing it to be such.

Prisoners.—No. 1, Bhageerthee, wife of Luka, Scinda, aged 25.
2, Narayen bin Mañajee, Scinda, aged 20.
3, Keshowshet bin Gunshet, Sapté, aged 55.
4, Dhondoo bin Keshowshett, Sapté, aged 15.

Charge.—Receipt and concealment of stolen property, knowing, or having evident grounds for believing it to be such (Regulation XIV. of 1827, Section XLI. Clause 1st); in having, between 16th January 1855, (Mitee Poush Wud 13th, Shuké 1776,) and 25th January 1855,

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Receipt and Concealment of Stolen Property, knowing, or having evident grounds for believing it to be such.

(Mitee Magh Shood 8th, Shuké 1776,) in the town of Rutnagherry, received and kept in their possession, without giving notice thereof to the Police, a copper pot, or the same cut up into bits, valued at Rs. 5-14-0, the property of Ragho Sudasew Phatuk, knowing, or having evident grounds for suspecting the same to have been stolen.

The prisoners severally plead not guilty.

Finding and Sentence by the Deputy Magistrate, confirmed by the Magistrate.—A robbery was committed in the house of Ragho Punt Phatuk, but failing to discover the culprit, notice was given of the circumstance to the Police, passing by the street of the coppersmiths. Some days afterwards, the Quartermaster Havildar of the Police (witness No. 5) was attracted by a dispute between a woman and a man (prisoners Nos. 1 and 2) regarding the price to be paid for a copper pot which the former had given to the latter. Witness No. 5 at once recognized prisoner No. 2, as he was a coppersmith, but he inquired after the woman (prisoner No. 1), and ascertaining that she was Phatuk's own Coonbin, it forcibly struck him that the dispute between them must have been about the stolen copper pot. The Police immediately commenced searching some of the houses of the coppersmiths, where the dispute occurred. On this, witness No. 9, apparently without the slightest hesitation, produced the bits of copper into which the pot had been cut before it was disposed of to him. This witness stated that he purchased the copper from prisoner No. 4. Prisoner No. 4 was deputed to sell the copper by his father (prisoner No. 3). Prisoner No. 3 shows that he obtained the copper from prisoner No. 2, and prisoner No. 2 received it from prisoner No. 1, who, it seems, brought it to him in the dark, concealed in a basket. The evidence of witness No. 5 is worthy of perfect reliance. He is a quiet, inoffensive man, but at the same time a business-like and straightforward Police

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Receipt and Concealment of Stolen Property, knowing, or having evident grounds for believing it to be such.

Officer, and the discovery of the above combination is owing solely to his intelligence and discrimination. Taken in conjunction with the testimony of this witness, the history of the pot, as given by prisoner No. 2, is satisfactory. The Police Kamgar (witness No. 7), who is intimately acquainted with the habits and character of the townspeople, gives a long account of the misdeeds of prisoner No. 1 on previous occasions. Moreover, on the day the dispute between her and prisoner No. 2 occurred, she was seen in the street of the coppersmiths by witness No. 15, and she herself admits the fact.

These circumstances show that prisoner No. 1 must have come by the copper pot dishonestly ; but for want of direct proof of the robbery having been committed by her, she is tried, in common with the other prisoners, on one and the same charge. The evidence in the case is sufficient to show that prisoner No. 1 was well aware that the copper pot was the property of her master. Prisoner No. 1 (Bhageerthee), wife of Luka Scinda, is therefore convicted of the offence on which she has been tried, as set forth at the commencement of these proceedings.

On a perusal of the statements of prisoners Nos. 2, 3, and 4, it will be seen at once that they are severally guilty of complicity in the same offence of which prisoner No. 1 has been convicted, inasmuch as they all admit having had a hand in the disfigurement of the pot, and subsequent sale of the copper. The prisoners No. 2 (Narayen bin Manajee, Scinda), No. 3 (Keshowshett, Sapté), and No. 4 (Dhondoo bin Keshowshett, Sapté) are respectively found guilty of the charge against them, as specified in the indictment.

After a mature deliberation of all the circumstances connected with the case, and the degree of criminality attaching to each prisoner, the Deputy Magistrate awards punishment as follows :—

Prisoner No. 1 (Bhageerthee), as the principal in the

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Receipt and Concealment of Stolen Property, knowing, or having evident grounds for believing it to be such.

case, a fine of fifty (50) rupees, commutable in default, to imprisonment for one (1) year, with labour befitting her sex.

Prisoner No. 2 (Narayen bin Manajee, Scinda) a fine of forty (40) rupees, and in default commutable to imprisonment with hard labour, for a period of nine (9) months.

Prisoner No. 3 (Keshowshett, Sapté) a fine of twenty-five (25) rupees, commutable to six (6) months' imprisonment, with hard labour.

Prisoner No. 4 (Dhondoo bin Keshowshett, Sapté (a fine of fifteen (15) rupees, commutable to imprisonment with hard labour for three (3) months. (Regulation XIV. Section XLI. Clause 1st of 1827.)

The sentence passed on prisoners Nos. 1, 2, and 3 being subject to confirmation, the proceedings are submitted to the Magistrate for that purpose. (Section III. Regulation IV. of 1830.)

The bits of the copper pot to be restored to complainant and his receipt taken.

Reviewed by the Session Judge on Appeal.—Excepting that of the Havildar of Police (witness No. 5), who states that he saw prisoners Nos. 1 and 2 disputing about the price of a copper pot, there does not appear to be any evidence against the prisoner Bhageerthee; and being of opinion, therefore, that the conviction and sentence passed upon this prisoner should be annulled, the whole of the papers and proceedings are forwarded for the final orders of the Judges of the Sudder Foujdaree Adawlut.

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward the case of Bhageerthee and others, tried before the Deputy Magistrate of Rutnagherry, called for by me on the appeal of the prisoner, and for the reasons assigned in the annexed extract from my proceedings of this day's date, I request you will be so good as to submit the same

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for the final orders of the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The Court concur with the Session Judge as to the amount of evidence against Bhageerthee, whose conviction and sentence are annulled, it being optional to the Magistrate to proceed against her for the robbery, if he considers the charge can be supported by any evidence procurable.

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BELGAUM.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 7 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. A. E. D. GREY, Third Assistant Magistrate of Belgaum, on the 15th January 1855. Tried by Mr. A. W. JONES, Session Judge, on the 20th January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.

Wilful Destruction of a Dwelling-house by Fire.

Prisoner.—Pirya bin Rawapa, Mahratta, aged 25.

Charge.—Wilful destruction of a dwelling-house by fire (Regulation XIV. Section XLII. Clause 1st); in having, on or about the 4th January 1855, (corresponding with Poush Shood 1st, Shuké 1776,) wilfully set fire to the house of Balaka kom Mudlinga, of Oogurkode, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah.

Finding and Sentence by the Session Judge.—The prisoner is charged with wilfully setting fire to a dwelling-house, and pleads not guilty.

It appears that on the night of the 4th January, one of the Shetsundees who were on guard at the Chowkee of Oogurkode saw a man running by, as if going out of the village, and called to him; and as he would not come to the Chowkee, as he desired him, the other Shetsundees were called up, and the man was secured and arrest-

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Wilful Destruction of a Dwelling-house by Fire.

ed; and put in the Chowkee. The three Shetsundees have deposed to this before the Court, and the man thus seized was the prisoner. A short time after his arrest in this way, the glare of a fire was seen in the village, and two of the witnesses went to inquire about it. It was found to be at the house of complainant, and she said she suspected the prisoner of having done it; and the next day a stick, which complainant and her uncle declare they know belonged to prisoner, was found near their house.

The prisoner, on his way to the District Police Officer, confessed that he had set fire to this house, in revenge for having been refused access to the complainant on the night in question; and it appears from the complainant's evidence that she had had an intrigue formerly with the prisoner, but that it had ceased, and that in the evening of the night in question the prisoner had asked her leave to come to her, but that, being afraid of her husband, she had refused him.

The prisoner admitted his guilt before the District Police Officer of Kitoor, and pleaded guilty, and admitted his confession also before the Assistant Magistrate, and this has been fully proved before the Court; and the Session Judge is of opinion, therefore, that there can be no doubt of his guilt, and he is accordingly convicted of having wilfully set fire to a dwelling-house; in having, on or about the 4th January 1855, (corresponding with Poush Shood 1st, Shuké 1776,) wilfully set fire to the house of Balaka kom Mudlinga, of Oogurkode, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XLII. Clause 1st, and that there appear to have been many persons in this house, the following sentence is passed:—

That you, Pirya bin Rawapa, be imprisoned and kept to hard labour, for four (4) years.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

BELGAUM.

[Case No. 11 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. W. H. HAVELOCK, First Assistant Magistrate of Belgaum, on the 26th January 1855. Tried by Mr. A. W. JONES, Session Judge, on the 31st January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Gang Robbery with Force, by Night.

Prisoners.—No. 1, Poojaree bin Gopalah, Berud, aged 32.
2, Sungya bin Noorundapa, Lingayeet, aged 30.
3, Govinda bin Rungapa, Berud, aged 60.
4, Balya bin Ningapa, Dhungur, aged 35.
5, Nagapa bin Satapa, Lingayeet, aged 54.

Charge.—Gang robbery with force, by night (Regulation XIV. of 1827, Section XXXVII. Clause 1st); in having, on the night of Monday the 8th January 1855, (corresponding with Poush Wud 5th, Shuké 1776,) at Buneedimee, in the Bagulkote Talooka, in the Belgaum Division of the Dharwar Zillah, entered the house of Lenkapa bin Tumana, by breaking a hole in the wall, and stolen from the house ornaments, money, and clothes, &c., valued altogether at Rs. 60-0-6.

Finding and Sentence by the Session Judge.—In this case the prisoners are charged with gang robbery by night, with force, and plead guilty.

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BELGAUM.

Gang Robbery with Force, by Night.

It appears that on the 8th January, the house of one Lenkapa, in the village of Buneedimee, was entered and robbed of articles of various kinds, cash, &c. to the value of about Rs. 60. The complainant suspected prisoner Govinda, on account of some inquiries made by him a few days previous, and this led to the arrest of that prisoner, and all the others. They have all pleaded guilty, both before the Assistant Magistrate and the Court, and have admitted the confessions they had severally made before the Police, in which the circumstances of the robbery are detailed ; and they are therefore one and all convicted of gang robbery, with force, by night; in having, on the night of Monday the 8th January 1855, (corresponding with Poush Wud 5th, Shuké 1776,) at Buneedimee, in the Bagulkote Talooka, in the Belgaum Division of the Dharwar Zillah, entered the house of Lenkapa bin Tumana, by breaking a hole in the wall, and stolen from the house ornaments, money, and clothes, &c., valued altogether at Rs. 60-0-6. And having considered the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXXVII. Clause 1st of 1827, the following sentence is passed :—

That you, Poojaree, Sungya, Govinda, Balya, and Nagapa, be severally imprisoned and kept to hard labour, for three (3) years.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoners is rejected.

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BROACH.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 9 of the Criminal Return of the Magistrate of Broach for January 1855. Tried by Mr. NOWROJEE BYRAMJEE, Deputy Magistrate, on the 18th January 1855. Reviewed by Mr. E. L. JENKINS, Magistrate, on the 3rd February 1855. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Using False Weights.

Prisoners.—No. 1, Amerchund Ragoonath, Vania, aged 27.
2, Ghela Rugoonath, Vania, aged 25.
3, Bhuga Bheeka, Kolee, aged 25.

Charge.—Using false weights; in that, on the 30th December 1854, (Sumvut 1911, Poush Shood 11th,) in the village of Borebhatha, Talooka Broach, in weighing 13 maunds of tobacco, belonging to complainant Natha Prutab, from whom they bought it, they employed, instead of stamped weights in general use, weights of earth and dirt, which were heavier than the lawful weights 6½ seers on a maund, thereby defrauding the seller of about 13 annas. (Regulation XIV. of 1827, Section XXII.)

The prisoners plead not guilty.

Finding and Sentence by the Deputy Magistrate.—The prisoners are charged with using false weights, and thereby defrauding the complainant of some 13 annas or so worth of tobacco, which they stipulated to purchase from the complainant. From the evidence of the complainant, the Police Patel, and Havildar Roostum, and Pana Lalchund, the Bunnia of the village, it is quite evident that the prisoners, by using a false maund of earth, weighing 46½ seers instead of 42 seers, the utmost that it is legitimate, as prisoner No. 1 himself admits, to allow a maund used in weighing tobacco to contain, received 1 maund and 18 seers in excess of the stipulated quantity. It is also proved by the same testimony, that all the pri-

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BROACH.

Using False Weights.

soners were concerned in the perpetration of the fraud in question; for though the first two prisoners deny that prisoner No. 2 was present, prisoner No. 3 flatly contradicts them, by stating that they were all there present. Moreover, prisoner No. 3 admits his participation in the act of framing the weight (maund of earth), but casts the burden of guilt upon the shoulders of prisoners Nos. 1 and 2, by advancing the wretched plea that he merely acted like an automaton, putting things wherever he was desired to do, without any knowledge or volition on his part. The defence set up by prisoner No. 1, that he was not the purchaser, but a mere broker for a Borah, even if his statement were correct, avails him nothing. Whether he was himself the purchaser or not, is immaterial to the question. The fact, nevertheless, is that he committed the fraud, which he cannot disprove.

Under these circumstances, the Deputy Magistrate convicts the prisoners of the offence laid to their charge, and sentences each of them to two (2) months' imprisonment, with hard labour. (Regulation XIV. of 1827, Section XXII.)

Reviewed by the Magistrate, on Appeal.—The Magistrate sees no reason to interfere.

Resolution of the Sudder Foujdaree Adawlut.—The law under which the petitioners have been convicted applies to persons professing to deal in retail—not to purchasers, but to sellers.

The conviction and sentence are annulled, and the prisoners Amerchund, Ghela, and Bhuga are to be discharged.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

AHMEDNUGGUR.

[Petition of Luximeebaee, widow of Ramrow, to the Sudder Foujdaree Adawlut, praying that the order of the Magistrate of Ahmednuggur, Mr. C. E. F. TYTLER, directing her to make over a certain quantity of grain to another party, might be set aside, her complaint to the Session Judge having been rejected. Referred to the Magistrate for report, on the 28th March 1855.]

Order of the Magistrate, assigning Possession of Property.

Return of the Magistrate to a Precept of the Sudder Foujdaree Adawlut.—The case in which Luximeebaee, widow of Ramrow (the present petitioner), and six others, were prisoners, was sent up for trial by the Police Officer of the Nuggur Talooka, on the 17th July last. After a full investigation, all the prisoners were committed to stand their trial at the Court of Sessions on the 22nd idem, on a charge of conspiracy, in having combined together to deprive one Kishundas wulud Suntookram, Marwaree, of his right to a certain quantity of 'bajree,' measuring about 7 candies and 4 pylies, valued at or about Rs. 280-10-8. It appears, from an extract of the Assistant Session Judge's proceedings in this case, dated 20th September last, that all the prisoners were acquitted, and the property was restored to its rightful owner, the Marwaree, by the late Acting Magistrate, and Superintendent of Police.

There is no doubt that the real owner of the grain is Kishundas wulud Suntookram, to whom Luximeebaee, widow of Ramrow, has mortgaged her house, to which is attached the granary, in which, as appears from the evidence of many witnesses, the Marwaree was in the habit of keeping his grain.

If, however, petitioner has any claim to the grain, the Civil Court is open to her.

Resolution of the Sudder Foujdaree Adawlut.—The petitioner is informed that the Court cannot interfere.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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DHARWAR.

[Case No. 16 of the Criminal Return of the Magistrate of Dharwar for July 1853. Tried by Mr. J. M. STEWART, Acting First Assistant Magistrate, on the 27th July 1853. Proceedings submitted to the Sudder Foujdaree Adawlut, by the Magistrate.]

Attempt to Commit Robbery by Night.

Prisoners.—No. 1, Lokya bin Roopa, Lumban, aged 45.
2, Ruma bin Dasoo, Lumban, aged 30.
3, Ramoo bin Dasoo, Lumban, aged 38.

[For the former proceedings in this case, see pages 507 to 509, Vol. II. of 1854.]

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In forwarding the accompanying English proceedings, held by my Acting First Assistant Magistrate in the case of prisoner Lokya bin Roopa, and others, in which he was convicted of having attempted to commit robbery by night, and sentenced to imprisonment with hard labour for eight (8) months, and, on the expiry of his sentence, to furnish two sureties in Rs. 50 each, subject, in default, to six (6) months' imprisonment, that he would abstain from the commission of theft for two years, I have the honour to report, that as the prisoner failed to furnish the security required of him, he was remanded to imprisonment, and since the period of one year, the full extent of the Magistrate's authority to imprison, will expire on the 26th March 1855, I beg to be favoured with authority from the Judges of the Sudder Foujdaree Adawlut to continue his imprisonment for another year, or until the occasion be past, unless he furnish the security required of him in the mean time.

Precept issued by the Sudder Foujdaree Adawlut to

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Attempt to Commit Robbery by Night.

the Magistrate.—The Magistrate is to be requested to report whether the Resolution of the Court on the reference about the other two prisoners, Ruma and Ramoo, of the 11th October last, might not be adopted in respect to the prisoner Lokya.

Return of the Magistrate to a Precept of the Sudder Foujdaree Adawlut.—The due execution of this Precept is hereby certified to the Judges of the Sudder Foujdaree Adawlut, that the prisoner Lokya bin Roopa was required to enter into his own recognizance for the period of one year.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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POONA.

Present, { METCATFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 15 of the Calendar of the Poona Sessions Court for 1855. Committed by Mr. J. S. INVERARITY, Assistant Magistrate, on the 31st January 1855. Tried by Mr. P. W. LEGEYT, Session Judge, assisted by Assessors, on the 20th February 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Setting Fire to Crops reaped in the Field.

Prisoner.—Tookya wulud Dhondee, Koonbee, aged 25.

Charge.—Setting fire to crops reaped in the field (Regulation XIV. of 1827, Section XLII. Clause 1st); in having, on the night of the 18th January 1855, (corresponding to Poush Wud 30th, Shuké 1776,) in a field close to the hamlet of Bhosdaree, Talooka Shewnere, Zillah Poona, set fire to some stacks of grain and fodder, belonging to complainant Somajee bin Trimbukjee, whereby nine stacks were totally burned, and property of the value of Rs. 63-8-0 destroyed.

The prisoner pleads not guilty.

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POONA.

Setting Fire to Crops reaped in the Field.

Finding and Sentence by the Session Judge.—The Court, after consulting with the Punchayet, and weighing the evidence, records the following remarks :—

There is no doubt of the fire having taken place. Ill-will is proved to have existed between Somajee and the prisoner. Prisoner, Rama, and Oomia (his partner and cousin) were sleeping, on the night of the fire, in prisoner's own stack-yard. Rama and Oomia both state, that about midnight prisoner got up, and said he was cold, and would go and fetch some fire. He went to his own house, which was close by, but did not return ; but he went towards Somajee's 'khula,' which became on fire, and immediately after the prisoner ran back to his khula. The evidence given by these two witnesses is quite consistent. Govinda deposes to having been up, and to having seen the prisoner apply fire to the stack, and he gave the alarm, which Oodajee says he heard, and saw the fire. The Court discards Junee's evidence entirely : it is probable she was, as she says, up when the fire broke out, but the rest of her story is evidently made up, either to give herself importance, or she has been tutored by Somajee and others, with the idea of strengthening the case.

The prisoner literally urges nothing in his defence. His plea of general ill-will on the part of the villagers is not substantiated more than the Patel states he is a troublesome man.

On the above evidence, and with the unanimous concurrence of the Punchayet, a verdict of guilty is recorded.

Recorded, the opinion of the Assessors.

The following sentence is passed :—

That you, Tookya wulud Dhondee, be imprisoned and kept to hard labour, for the space of twelve (12) months, and that you do pay a fine of sixty (60) rupees, which fine shall be levied from your goods and chattels, as pro-

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vided by Act II. of 1839, and the proceeds shall be given to Somajee wulud Trimbukjee, as compensation for the loss of property which you have by your act occasioned to him; and in default of your goods and chattels being sufficient to pay such fine, then you be further imprisoned and kept to hard labour, for a further period of four (4) months. (Regulation XIV. of 1827, Section XLII. Clause 1st; Regulation XII. of 1827, Section III.; Act IX. of 1838; and Act II. of 1839.)

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—Act II. of 1839, quoted by the Session Judge to authorise the levy of the fine by distraint, does not apply to Sessions Courts; and so much of the sentence as orders distress under that Act is annulled.*

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BELGAUM.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 12 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. W. H. HAVELOCK, First Assistant Magistrate, on the 27th January 1855. Tried by Mr. A. W. JONES, Session Judge, on the 2nd February 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners Busya bin Khobuna, and four others.]

Gang Robbery with Force, by Night; and Concealment of the Gang Robbery before the fact.

Prisoners.—No. 1, Busya bin Khobana, Ruder, aged 35.

* *Return of the Session Judge to a Precept of the Sudder Foujdaree Adawlut.*—With reference to the extract which accompanied this Precept, the Session Judge has the honour to state, that in the case in question it did not become necessary to enforce the payment of the fine by distress and sale of property. The prisoner, having the means, paid the amount levied in cash.

The petition has been delivered to the prisoner.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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BELGAUM.

Gang Robbery with Force, by Night; and Concealment of the Gang Robbery before the fact.

Prisoners.—No. 2, Dyama bin Timapa, Dher, aged 35.
3, Tima bin Rungapa, Dher, aged 30.
4, Lutchmą bin Bheema, Dher, aged 35.
5, Muilia (Father's name unknown), Dher, aged 35.
6, Purya bin Mootchkund, Lingayeet, aged 20.
7, Linga bin Khobuna, Ruder, aged 25.

Charge.—Against prisoners Nos. 1 to 5, gang robbery with force, by night (Regulation XIV. Section XXXVII. Clause 1st of 1827); in having, on the night of Thursday the 28th December 1854, (corresponding with Poush Shood 9th, Shuké 1776,) at Huloor, in the Bagulkote Talooka, in the Belgaum Division of the Dharwar Zillah, entered the house of Gungapa bin Busapa Hoodar, by breaking a hole in the wall, and gagged Chinowa, the wife of Gungapa, owner of the house, and stolen from the house, money, ornaments, and clothes, &c., value not known exactly.

And against prisoners Nos. 6 and 7, concealment of the gang robbery before the fact (Regulation XIV. of 1827, Section XXXVII. Clause 1st, and Section I. Clause 5th); in having been made acquainted with the other prisoner's intention to commit this robbery, and having given no information to the Authorities.

Finding and Sentence by the Session Judge.—In this case, prisoners from 1 to 5 are charged with gang robbery with force, by night, and plead guilty; and prisoners Nos. 6 and 7 are charged with concealment of the same before the fact, and plead not guilty.

It appears that on the night of the 20th December, the house of the complainant Gungapa was broken into, and robbed of a quantity of property, and suspicion fell

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Gang Robbery with Force, by Night; and Concealment of the Gang Robbery before the fact.

on the prisoners, who, on being apprehended, confessed, and surrendered a considerable part of their plunder. The prisoners Busya, Dyama, Lutchma, Tima, and Muilia, have pleaded guilty, as well as admitted the confessions they had previously made, detailing the circumstances of the crime; and they are all therefore convicted of gang robbery with force, by night; in having, on the night of Thursday the 28th December 1854, (corresponding with Poush Shood 9th, Shuké 1776,) at Huloor, in the Bagulkote Talooka, in the Belgaum Division of the Dharwar Zillah, entered the house of Gungapa bin Busapa Hoodar, by breaking a hole in the wall, and gagged Chinowa, the wife of Gungapa, owner of the house, and stolen from the house, money, ornaents, and clothes, &c., value not known exactly.

Against the prisoner Purya there is nothing at all, beyond a confession of having heard about the robbery before it took place, which not having been admitted before the Court, the Session Judge did not think it necessary to prove, as alone it would not have been sufficient for conviction; and therefore he is acquitted.

Against the prisoner Linga, it is shown by the evidence of the complainant and two other witnesses, that he gave up some rupees, and they say he said it was part of the plunder of the complainant; but it appears he was charged with concealment before the fact, which this evidence would not support, and he is therefore acquitted.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXXVII. Clause 1st of 1827, the following sentence is passed:—

That you, Busya, Dyama, Tima, Lutchma, and Muilia, be imprisoned and kept to hard labour, for three (3) years.

Resolution of the Sudder Foujdaree Adawlut.—The Court see no cause to interfere.

They are of opinion that the prisoner Linga, having admitted his statement, confessing his knowledge of the robbery, before the Sessions Court, the Session Judge should have assigned more distinct reasons for acquitting him.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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SURAT.

[Case of Nuthwa Khanjee, ordered to find Security for Good Conduct, by Mr. E. W. RAVENSCROFT, Assistant Magistrate, on the 31st March 1855. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on appeal.]

Failure to furnish Security for Good Conduct.

Prisoner.—Nuthwa Khanjee, Dooblo, aged 25.

Charge.—Robbery at night, without force; in that, on the 16th August 1854, he, by means of a broken wall, entered the house of a person named Hansjee Bana, residing in the village of Mordevee, Purgunna Valore, and stole from the person of his child a 'kulee,' or wristlet, and a neck ornament, of the value conjointly of the sum of Rs. 34-14-0.

Finding and Sentence by the Assistant Magistrate.—Before the Joint Police Amuldar of Kurode, prisoner confesses, that in conjunction with a man named Koilo, he committed the robbery in question; before the District Deputy Magistrate, however, he much modifies his statement, and sets forth as follows:—That on the night stated in the charge, he, with Koilo, went out to get some vegetables (the Assistant Magistrate presumes to *steal*). He went into a person's garden for that purpose, and Koilo went to that of the prosecutor. Afterwards he met Koilo, and returned to his house with him. He (Koilo) had a large bundle in his hand, which appeared to contain vegetables. This is the essence of prisoner's statement before the District Deputy Magistrate. That

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Officer considered that no proof had been adduced to fix the guilt of robbery on him, and therefore acquitted him of the robbery ; but inasmuch as the story was to a certain extent an admission of bad conduct, that Officer deemed it necessary to order the prisoner to furnish security for his good conduct for the space of one year, in the sum of fifty (50) rupees, or suffer in default one (1) year's imprisonment, without hard labour. This security not being forthcoming, prisoner was confined, to be released from which confinement he has made this present petition to the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Magistrate is to be requested to direct his District Deputy to write a more intelligible hand.

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SURAT.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case of Jeewa Kurim, ordered to find Security for Good Conduct, by Mr. E. W. RAVENSCROFT, Assistant Magistrate, on the 31st March 1855. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on appeal.]

Failure for Security for Good Conduct.

Prisoner.—Jeewa Kurim, Mussulman, aged 50.

Charge.—Burglary ; in that, on the 28th of August 1854, he entered the house of a person named Bekun Fakeer, residing in Randeer, and stole from there property of the value of Rs. 81-1-4.

The case was tried by the District Deputy Magistrate, but the prisoners were discharged for want of proof. In consequence, however, of the suspicious circumstances connected with the trial, the District Deputy Magistrate ordered Jeewa Kurim to furnish security to the amount of two hundred (200) rupees for good conduct, or in default, imprisonment for the space of one (1) year ; and

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his son, who was a fellow-prisoner, to furnish security to the amount of fifty (50) rupees, or in default of payment imprisonment for three (3) months.

Finding and Sentence by the Assistant Magistrate.—On this evidence, the District Deputy Magistrate declares that he cannot convict the prisoners, and they are therefore dismissed, as relates to this charge. Inasmuch, however, as their conduct is open to grave suspicion, and that Jeewa has already suffered six months' imprisonment, on another charge, it appears necessary to take security from both that they will be of good conduct. Jeewa is therefore ordered to furnish security for good conduct in the sum of two hundred (200) rupees, for the space of one (1) year, or in default one (1) year's imprisonment, without hard labour; and his son for three (3) months in the lesser sum of fifty (50) rupees, or three (3) months' imprisonment. The money not being forthcoming, they are imprisoned; and to be released from which Jeewa has made the present petition to the Judges of the Sudder Foujdaree Adawlut.

* * * * * *

The son of the prisoner Jeewa, himself also charged with the burglary, when before the District Deputy Magistrate entirely denied his former statement, inculpating himself and father, which he said had been extorted from him by harsh means.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

DHARWAR.

[Case No. 20 of the Criminal Return of the Magistrate of Dharwar for January 1855. Tried by Rao Bahadoor VITUL RAO NARAYEN, Deputy Magistrate, on the 31st January 1855. Reviewed by Mr. A. W. JONES, Session Judge, on the 15th March 1855. Proceedings submitted for the final decision of the Sudder Foujdaree Adawlut, by the Session Judge.]

Robbery by Night, without Force.

Prisoners.—No. 1, Shunkra bin Busapa, Dewnug, aged 25.
2, Racha bin Sidlingapa, Dewnug, aged 25.
3, Sungapa bin Mulapa, Lingayeet, aged 20.

Charge.—Robbery without force, by night, of property of the value of Rs. 667.

Finding and Sentence by the Deputy Magistrate, confirmed by the Magistrate on the 6th February 1855.—Prisoners Nos. 1 and 2 convicted, and sentenced each to eight (8) months' imprisonment, with hard labour. (Regulation XIV. of 1827, Section XXXVII. Clause 4th.)

Prisoner No. 3 acquitted.

Reviewed by the Session Judge on Appeal.—In this case the prisoners were charged with robbery without force, by night, and pleaded not guilty.

It appears that the complainant, and some relations and fellow-villagers, came from Ilkul to a 'jutra' at Bettigheree, where they all put up in the Demur Muth. That they went in parties at different times during the night of the 11th November, to see the 'khel'; and that next morning the complainant, on being asked by a woman to put up some ornaments for her in his bag, found that all his own ornaments had disappeared.

The prisoners were of this party. But the evidence against them, taken by the Deputy Magistrate, consists only of the deposition of the complainant; and all he

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says on the subject is, that on the morning when he discovered his loss, it was found that the prisoner Shunkra had gone off, but that he has no proof that the prisoners committed the robbery.

There is no other evidence whatever as to the robbery, and the rest of the case consists of the depositions of the attesting witnesses to the confession of the prisoners before the Police, which were denied before the Deputy Magistrate.

And the Deputy has convicted two of the prisoners on these confessions, although there is scarcely any evidence in corroboration of that of prisoner Shunkra ; and with regard to that of the prisoner Racha there is none at all.

The Deputy Magistrate says :—" He or another prisoner went away, saying falsely he was going in search of prisoner Shunkra at Ilkul." This, although obscurely worded, the Session Judge believes to refer to prisoner No. 2. But it is only stated in the complainant's deposition, that on the morning when Shunkra went off, " he sent to look for him everywhere, and that Racha, and a man named Mulla, one of the party, went to Ilkul, to see if he had gone there, and returned" ; but he does not accuse them of having gone away under any false pretence ; and Mulla (whose deposition appears to have been read by the Deputy Magistrate, whereas he ought to have been examined as a witness) says distinctly that they were both sent to Ilkul by the complainant, and there is no doubt they returned to Bettigheree, where the complainant had remained since the robbery, for they were arrested there when they did so.

The Session Judge does not think, under these circumstances, that the confession of the prisoner Racha was sufficiently corroborated before the Deputy Magistrate to warrant his being convicted on it, and will therefore recommend to the superior Court that the conviction should be annulled.

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As the complainant deposes to the fact of the prisoner Shunkra having absconded on the very morning when the robbery was discovered, that may, perhaps, be considered sufficient to corroborate the confession he made afterwards; but the person who arrested him in Hooblee should also have been called up and examined as a witness; and not having been so, the Deputy Magistrate ought not to have alluded in his Finding to what was done by him, as it appears he could only have known it from the report of the Patel of Hooblee.

There are several other witnesses who ought to have been examined by the Deputy Magistrate; viz. Fukeerapa, who arrested the prisoners Racha and Sungapa in Bettigheree, and Jamal Saheb, who was present when the prisoner Shunkra went to try and point out where the stolen property had been concealed, but either would not or could not do so; but the Deputy Magistrate only read their depositions, and endorsed them with the 'dakul tareekh,' or date of record.

The Session Judge will forward an extract from his proceedings in this case for any remarks the Magistrate may have to offer. For it appears by the decision of the Sudder Foujdaree Adawlut at page 604 of the "Cases disposed of by the Sudder Foujdaree Adawlut" in November last, that a Magistrate cannot annul an order of his own, or release prisoners at the requisition of the Session Judge; and therefore the Session Judge concludes this is the only course by which a conviction of an Assistant Magistrate, confirmed by the Magistrate, can be annulled. In case the Magistrate's explanation should be sufficient, the Session Judge can of course retract his resolution to send the case to the Sudder, but otherwise, these proceedings, and the Magistrate's explanation, will have to go together to the Sudder.

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Letter from the Magistrate to the Session Judge.—I

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have the honour to acknowledge the receipt of your letter dated the 15th instant, No. 438, with an extract from your proceedings in the case of the prisoners Shunkra bin Busapa, and Racha bin Sidlingapa, convicted by my Deputy Magistrate, Vitul Rao Narayen, of robbery without force, by night, and sentenced to suffer eight months' imprisonment each, with hard labour, which sentence was confirmed by myself.

In reply, I have the honour to transmit for your information my own remarks on the case.

Remarks by the Magistrate.—It appears, that in the early part of November last, the complainant, Manapa bin Sunkrapa, the two prisoners, and others, proceeded together from their village of Ilkul, in the Belgaum Zillah, to attend at a jutra at Bettigheree, in the Dharwar Zillah, where they all lodged in the same room in the Demur Muth. That early on the morning of the 12th November, the complainant discovered that his valuables, which he had placed in a copper box, and tied in a sack, had been stolen, and that prisoner No. 1 (Shunkra bin Busapa) had disappeared. This naturally excited suspicion against Shunkra, in whose search the party dispersed in different directions. A servant belonging to the Muth, named Shetmajee, found Shunkra in Old Hooblee, and handed him over to the Police Patel, who transferred him to the City Joint Police Officer, with a report to the effect that he had confessed that he had committed the robbery in association with prisoner No. 2 (Racha bin Sidlingapa), and a third person, named Sungapa bin Mulapa, and that he had offered to point out where the stolen property had been hidden. The prisoner gave a detailed confession before the Joint Police Officer of Hooblee, which he confirmed before the Mamlutdar of Dumbul. In those confessions he implicated the two other prisoners, and minutely described the place where the stolen property had been buried.

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When the other two prisoners were apprehended, their depositions were taken by the Mamlutdar of Dumbul. Prisoner No. 2 (Racha) confessed, and gave nearly the same account of the robbery as prisoner No. 1, only varying it so as to throw as much of the guilt as possible from himself to the other prisoners. He also gave the same description of the spot where the stolen property had been concealed.

Shetmajee, who apprehended prisoner No. 1, having subsequently set out on a begging expedition, could not be examined by the Mamlutdar of Dumbul, or the Deputy Magistrate.

When the case came before the Deputy Magistrate, all the prisoners pleaded not guilty ; and as there was no evidence against prisoner No. 3 (Sungapa bin Mulapa), beyond the confessions of the other two prisoners, he was acquitted and discharged.

The evidence against prisoner No. 1 is that, having the means of access to the stolen property, he absconded from his party the very night it disappeared ; that he confessed to having committed the robbery before the Police Patel of Old Hooblee (as shown from that Officer's report), the Joint Police Officer of Hooblee, and the Mamlutdar of Dumbul, and that the statements made in his confession were confirmed by the prisoner No. 2.

It is true, that before the Deputy Magistrate he denied his former confessions, but he did not assert that they had been extorted from him ; whilst the witnesses who had attested his confession before the Joint Police Officer at Hooblee deposed that the confessions had been voluntarily given.

The evidence against prisoner No. 2 consisted in his own confession, corroborated in all essential particulars by that of prisoner No. 1. Besides, as he belonged to the complainant's party, he had great facilities for committing the robbery, which, from the circumstances

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of the case, appeared to have been in all probability committed by some person or persons belonging to that party.

The Deputy Magistrate has been informed that he ought to have taken the deposition of Fukeerapa Jemadar, who arrested the prisoners Racha and Sungapa. As the stolen property was not found at the spot pointed out by the prisoner Shunkra, it does not appear that much could have been elicited by examining Jumal Saheb Jemadar, who accompanied the prisoners to the spot.

Confessions, if voluntarily given, are the best of all evidence. In this case, the depositions of the attesting witnesses show that they were not extorted, and, indeed, the prisoners themselves do not assert that they were so. They were more or less corroborated, and therefore the Magistrate is of opinion that the prisoners were justly convicted by the Deputy Magistrate.

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward, for the final decision of the Sudder Foujdaree Adawlut, extracts from my proceedings, and those of the District Deputy Magistrate of Dharwar, on an appeal from the decision of that Officer, confirmed by the Magistrate, together with copy of letter from Mr. Ogilvy, No. 493, dated 30th ultimo, and that of the remarks which accompanied it.

Resolution of the Sudder Foujdaree Adawlut.—The Court concur with the Session Judge; and the conviction and sentences of both prisoners, Shunkra and Racha, are annulled.

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SURAT.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 63 of the Calendar of the Surat Sessions Court for 1854. Committed by Mr. E. W. RAVENSCROFT, Assistant Magistrate, on the 23rd December 1854. Tried by Mr. H. HEBBERT, Acting Session Judge, on the 9th January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Murder.

Prisoners.—No. 1, Heera Nana, Mochee, aged 48.
2, Ismal Rusool, Mussulman, aged 30.
3, Jeola Kuria, Kolee, aged 45.
4, Shunkurio Deola, Mochee, aged 52.

Charge.—Murder; in having, on Margsheersh Wud 2nd, Sumvut 1911, (corresponding with the 6th of December 1854,) about 9 o'clock at night, in the premises adjoining a toddy shop, in the limits of the village of Oomra, Purgunna Chorasee, assaulted and beat one Rutna Dhondo, Nurotum Maojee, and Nuthoo Kishna, with sticks, from the effects of which beating the said Rutna Dhondo then and there died.

Prisoners each and all plead not guilty.

Finding and Sentence by the Acting Session Judge.—From the evidence adduced in this case, it appears that the deceased and the two witnesses Nuthoo and Nurotum (Nos. 4 and 5) met, on the evening mentioned in the charge, at the liquor shed of a certain Parsee, within the limits of the village of Oomra. They had gone there with the intention of fishing, but the state of the tide being unfavourable, they were unable at once to carry out their purpose; they therefore lay down meanwhile to sleep. About an hour or two after this, that is about 9 P. M., they were awoke by receiving divers and sundry blows with sticks, from the effects of one of which on his head the deceased shortly afterwards died. The

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aforesaid two witnesses, on looking up, distinctly saw their assailants to be four in number, though who those assailants were they could not distinguish. On their assailants' departure, they proceeded to give information to the Police Authorities, which resulted in the immediate apprehension of the prisoners Heera, Ismal, and Shunkurio (Nos. 1, 2 and 4), as they were returning to the village from the direction of the liquor shed alluded to, and Jeola (No. 3) in his own house. Being interrogated, the prisoners one and all admitted they were present at the time of the assault; Heera and Jeola (Nos. 1 and 3) further confessing they had taken an active part therein, but the other two, Ismal and Shunkurio (Nos. 2 and 4), each asserting he did not enter the liquor shed, but stood without whilst the rest of the prisoners went in and beat the parties in question. Their version of the matter is that the prisoner Jeolo (No. 3), having had some words with the deceased and his companions, they accompanied him to avenge this, and drive the said deceased and his companions whence they were sleeping.

The questions that arise for consideration are, whether all four of the prisoners took part in the assault or not; and again, whether the crime committed amounts to murder. The Court is of opinion that the evidence of the witnesses Nuthoo and Nurotum (Nos. 4 and 5) establishes the first against the prisoners. They admit they were the only parties present; and the witnesses depose their assailants were, as before mentioned, four in number, and that those four joined in beating them. But at the same time, the Court is of opinion the crime committed does not amount to murder. The Court sees no reason to believe there was any preconceived intention formed of taking the deceased's life, but rather believes it was contemplated simply to give him and his companions a sound thrashing.

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Under this view, the Court convicts the prisoners, each and all, of culpable homicide; in having, on Margsheersh Wud 2nd, Sumvut 1911, (corresponding with the 6th December 1854,) about 9 o'clock at night, in the premises adjoining a toddy shop, in the limits of the village of Oomra, Purgunna Chorasee, assaulted and beat one Rutna Dhondo, Nurotum Maojee, and Nuthoo Krishna, with sticks, from the effects of which beating the said Rutna Dhondo then and there died.

The Court passes the following sentence:—

That you, Heera Nana, Ismal Rusool, Jeola Kuria, and Shunkurio Deola, be imprisoned for a period of five (5) years each, with hard labour, under Regulation XIV. of 1827, Section XXVII.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoners is rejected.

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TANNA.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 6 of the Calendar of the Konkun Sessions Court for 1855. Committed by Mr. G. S. FORBES, First Assistant Magistrate, on the 22nd January 1855. Tried by Mr. C. H. CAMERON, Assistant Session Judge, on the 6th, 16th, and 17th February 1855. Reviewed by Mr. R. KEAYS, Session Judge, on the 7th March 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Receiving a Present as a Native Revenue Officer.

Prisoner.—Narayen Dajee, Brahmin, aged 32.

Charge.—Receiving a present as a Native Revenue Officer (Regulation XVI. Section XI. Clause 2nd of 1827); in that he, being Tulatee of the village Karawu, Suza Kanoor, in the Kallian Talooka of the Konkun Zillah, did, on some date unknown, but during the month of October 1854, (corresponding with Ashwin 1776,) receive from one Wittojee Bawajeerow the sum of Rs. 3, which was subscribed by the cultivators of the village of Karawu, and given to the prisoner, to induce

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him to accept the securities they offered for the payment of the rent due on their land for the season 1854-55.

The prisoner pleads not guilty.

Finding and Sentence by the Assistant Session Judge.—There is the evidence of nine witnesses, agreeing as to place, time, and all the little circumstances of such a transaction, that the Tulatee, the prisoner at the bar, did, some five or six days before the Dewalee, that is about the 16th or 17th of October 1854, which date is the date entered in prisoner's own handwriting in the Zamin Sanklee No. 3, take from the ryots of Karawu, Rs. 3. The only evidence the prisoner produces to overthrow this testimony is that of Sukojee (witness No. 14) and Pud Patel (witness No. 15), who appear to have been mysteriously called for at first, and have not got their story up well, as the discrepancies in their statements are such as would not take place were the story true, but are exactly what would happen when a story is made up, and the links of the chain of circumstances get out of place in the memory of the instructed witness. The Court considers the evidence conclusive, and convicts the prisoner Narayen Dajee of the charge; in that he, being Tulatee of the village of Karawu, Suza Kanoor, in the Kallian Talooka of the Konkun Zillah, did, on some date unknown, but during the month of October 1854, (corresponding with Ashwin 1776,) receive from one Wittojee Bawajeerow the sum of Rs. 3, which was subscribed by the cultivators of the village of Karawu, and given to the prisoner, to induce him to accept the securities they offered for the payment of the rent due on their land for the season 1854-55.

The Assistant Session Judge proceeds to pass the following sentence:—

That you, prisoner Narayen Dajee, do suffer imprisonment for one (1) year, with hard labour, under Regulation XVI. Section XI. Clause 3rd of 1827.

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Receiving a Present as a Native Revenue Officer.

Reviewed by the Session Judge, on Appeal.—The whole of the papers and proceedings having been read, the Court is of opinion that the receipt of the bribe of Rs. 3 by the prisoner is most clearly proved. The Session Judge further concurs with the Assistant Session Judge in the view he has taken of the evidence of the two witnesses cited by prisoner.

The Court considers that the prisoner has been properly convicted, and can see no reason for interfering with the sentence.

The petition, endorsed to the above effect, is ordered to be returned to the prisoner.

Minute recorded by Mr. A. Remington.—To sustain this conviction, it must be credited that the prisoner, a Tulatee of eighteen years' experience, extorted from a whole village the sum of Rs. 3, in the most open and barefaced manner; and that the village yielded to his demands without a word or remonstrance.

The principal witness against the prisoner was Wittojee Deshmook, a man considerably advanced in years, and, as it may be inferred, a village official. He was absent, he deposed, from Hur Patel's, when the arrangement to fee the Tulatee was entered into, but learning from his grandson, on his return home, what had been done, he paid his share of the contribution, and after the expiration of twelve days preferred his complaint. He did not explain, nor was he asked, why he failed to proceed to the District Kutchery, and denounce the extortion at once, which, as the Mamlutdar's Office was close by, might have been done.

The evidence of the different witnesses has a most suspicious resemblance to each other, or, as the trying Authority records it, "there is the evidence of nine witnesses, agreeing as to time, place, and all the little circumstances of such a transaction"; and the Assistant Judge took no notice of a fact apparently reported by

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Receiving a Present as a Native Revenue Officer.

the Mamlutdar, that the Tulatee applied for a Sepoy to aid him in collecting the villagers together, a statement which, if true, was a proof in itself that single-handed he was unable to deal with them.

The petitioner could only deny his guilt; but in his petition to the Court he appealed to very long service, which in such a case as the present the Assistant Judge should have ascertained, and inquired into through the Mamlutdar, without whose evidence, indeed, Exhibit No. 4 ought not to have been recorded.

I am satisfied that the charge was got up maliciously, and the accusation unjust, and I would annul the conviction.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled, for the reasons set forth in the minute of one of the Judges, which will be communicated to the Session Judge in a separate Precept.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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KHANDEISH.

[Case No. 18 of the Calendar of the Khandeish Sessions Court for 1855. Committed by Rao Bahadoor RAM NAID, Deputy Magistrate, on the 28th February 1855. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 3rd March 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Having in her Possession Property, knowing, or having evident grounds for suspecting it to be Stolen.

Prisoner.—Tookree, daughter of Alifkhan, Mussulman, aged 25.

Charge.—Having in her possession property, knowing, or having evident grounds for suspecting it to be stolen; in having, on the night of Friday, the 9th February 1855, (corresponding with Magh Wud 7th, Shuké 1776,) at the town of Prukasay, Talooka Sooltanpoor, Zillah Khandeish, received from one Shaik Meerun wulud Noorshah a silver leg chain ornament, and one

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pair of silver bangles, valued at Rs. 61-10-0, the same being part of the property stolen from the house of Kaloo wulud Shaik Ruhimoo, on the same night, by the said Shaik Meerun, and three others, and kept the same in her possession, without giving information thereof to the Police Authorities; thereby rendering herself amenable to the provisions of Regulation XIV. of 1827, Section XLI. Clause 1st.

The prisoner pleads not guilty.

Finding and Sentence by the Session Judge.—The Court, in considering the evidence for the prosecution, and the statement in defence, is of opinion that the prosecutor (witness No. 3), and the goldsmith (witness No. 6), and the convict Meerun (witness No. 7), have sufficiently explained that the property before the Court was part of the ornaments stolen from the house of Kaloo, the Mussulman musician; while the statements of the Police Patel (witness No. 4), and the village accountant (witness No. 5), as well as that of the prisoner, show that she produced these articles from the house she lives in; and she accounts for the possession of them in the manner explained by the convict Meerun (that he had given them to her), urging, however, that she had no means of judging that the property had been dishonestly obtained; and her counsels add that there is no evidence on record in support of that condition; but the charge adds "with evident grounds for suspecting the same to have been stolen"; and this the Court is convinced the prisoner Tookree had, in the knowledge she must have had of the means and habits of her associate Meerun, and therefore is of opinion that the fact of the property having been found in her possession, and proved to be the property lost by robbery, is sufficient, under the circumstances of the parties concerned, to warrant the conviction that the prisoner Tookree is guilty of having in her possession goods, knowing, or having evident

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grounds for suspecting the same to have been stolen; in having, on the night of Friday, the 9th February 1855, (corresponding with Magh Wud 7th, Shuké 1776,) in the town of Prukasay, Taloqka Sooltanpoor, Zillah Khandeish, received from one Shaik Meerun wulud Noorshah, one silver leg chain ornament, and one pair of silver bracelets, valued at Rs. 61-10-0, the same being part of the property stolen from the house of Kaloo wulud Shaik Ruhimoo, on the same night, by the said Shaik Meerun, and two others, and kept the same in her possession, without giving information thereof to the Police Authorities; and the Court proceeds to pass the following sentence:—

That you, Tookree, daugher of Alifkhan, do undergo imprisonment, with such hard labour as women do, for one (1) year, agreeably to the provisions of Regulation XIV. of 1827, Section XLI. Clause 1st.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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RUTNAGHERRY.

[Case No. 4 of the Calendar of the Rutnagherry Sessions Court for 1855. Committed by Mr. J. TROTT, Deputy Magistrate, on the 15th January 1855. Tried by Mr. H. P. ST. G. TUCKER, Senior Assistant Session Judge, on the 17th January 1855. Reviewed by Mr. R. KEAYS, Session Judge of Tanna, on the 25th January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Gang Robbery by Night, without Force.

Prisoners.—No. 1, Juya wulud Dhondee, Mhang, aged 30.
2, Yesoo wulud Jania, Mhang, aged 35.

Charge.—Gang robbery by night, without force (Regulation XIV. of 1827, Section XXXVII. Clause 2nd);

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Gang Robbery by Night, without Force.

in that they did, with fifteen or sixteen other parties, some of whom have been convicted and punished, in the night of 20th October 1848, (corresponding with Mitee Ashwin Wuo 9th, Shuké 1770,) at the village of Surrund, Turuf Sangameshwur, Talooka Rutnagherry, enter the house of Witsett bin Sudasewsett, Alsoondkur, an inhabitant of the said village, and steal therefrom gold and silver ornaments, cash, wearing apparel, brass and copper vessels, and other articles, the whole valuing about Rs. 2,999-8-0, the property of the said Witsett and others. (Regulation XIV. of 1827, Section XXXVII. Clause 2nd.)

Finding and Sentence by the Senior Assistant Session Judge.—Evidence which, if admitted to be true, would prove the charge against the prisoners, has been read over in their presence, and they have subsequently fully confirmed the confessions made by them to the Police. They are therefore convicted of gang robbery by night, without force, as set forth in the indictment.

The prisoners are sentenced to be imprisoned, and kept to hard labour, in a criminal jail, for the period of three (3) years from the present date. Subject to the confirmation of the Session Judge. (Regulation XIV. Section XXXVII. Clause 2nd of 1827.)

Reviewed by the Session Judge.—Having read over all the papers and proceedings in this case, and had mature deliberation thereon, the conviction and sentence are confirmed.

Resolution of the Sudder Foujdaree Adawlut.—The petitions of the prisoners are rejected.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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SURAT.

[Case of Kaseeram Madhowjee, and another, ordered to find Security for Good Conduct, by Mr. E. W. RAVENSCROFT, Assistant Magistrate, on the 31st March 1855. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on appeal.]

Prisoners.—No. 1, Kaseeram Madhowjee.
2, Girjashunkur Soorujram.

Failure to furnish Security for Good Conduct.

Decision by the Assistant Magistrate.—In this case it appears that Kaseeram Madhowjee was a person of known bad character, in consequence of which the Police of the city of Surat had orders to take his 'hajree' every evening, in order that they might be convinced that he was engaged in no unlawful deed. In conformity with these instructions, on the night of the 21st of November 1854, the Police, as usual, went to his house, to see if he was there. The visit took place shortly before 9 o'clock. On the Sepoy from without asking whether Kaseeram was within, a voice answered in the affirmative. The Peon, discovering that the voice was not that of Kaseeram, obtained admission to the house, and there found Girjashunkur Soorujram alone. Thinking it odd that he should be sitting alone in the house of a person of bad character, he was asked where Kaseeram was gone; to which he answered that he was gone out to perform a call of nature. The answer being suspicious, Girjashunkur was arrested, and a guard set to arrest Kaseeram whenever he should return. Shortly afterwards, Kaseeram returned, and was arrested. Kaseeram, on being asked where he had been, gave an unsatisfactory answer; and at this time a person of the name of Kalo Lawjee was brought up, intoxicated, who stated that the prisoner had been with him, and had given him toddy, and adulterated sweetmeat, with a view of rendering him intoxicated,

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when it was his intention to have robbed him of some jewels that were on his person. The case will be now more clearly understood by briefly recording the deposition of Kalo, and others tending to carry out the assertions of the said Kalo.

* * * * * *

The Kotwal being of opinion that the evidence was not sufficient to prove that Kaseeram and Girjashunkur had intended robbing Kalo of his jewels, dismissed the case; but, considering the suspicious circumstances attending the matter, forwarded the proceedings to the Superintendent of Police, advising that security should be taken for the future good conduct of both Kaseeram and Girjashunkur. This the Magistrate agreed to, and therefore the prisoners were ordered to procure security in the sum of Rs. 100 for good conduct for the space of one year, or, in default of procuring such, to suffer one year's imprisonment. This they failed to procure, consequently the order for imprisonment was put into force, to be released from which they made the present appeal to the Sudder Foujdaree Adawlut. Kaseeram has been imprisoned thrice—once for three years, once for one month, and once for one year—for failing to furnish security.

Girjashunkur has been imprisoned once, for the space of one year.

Minute recorded by Mr. M. Larken.—Girjashunkur is not represented to be such an object of public distrust as the other petitioner, and the amount of security demanded from him might be reduced.

Minute recorded by Mr. W. H. Harrison.—I do not see cause to interfere with the Magistrate's order in the case of either of these petitioners.

Resolution of the Sudder Foujdaree Adawlut.—Kaseeram's petition is rejected, and Girjashunkur's is referred to a third Judge.

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Failure to furnish Security for Good Conduct.

Minute recorded by Mr. A. Remington.—[States his concurrence with Mr. Larken.]

Final Resolution of the Sudder Foujdaree Adawlut.—The Court reduce the amount of security to be demanded from Girjashunkur to Rs. 50.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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BELGAUM.

[Prisoners Nos. 3, 4, and 5 of the Criminal Return of the Officiating Assistant General Superintendent of Belgaum, for January 1855. Tried by Lieutenant F. SCHNEIDER, Officiating Assistant General Superintendent. Proceedings certified on the Monthly Criminal Return to the Sudder Foujdaree Adawlut.]

Prisoners.—*No.* 3, Jalgar Doorgah, Khaikadee, aged 30.
4, Sungsar Boodha, Khaikadee, aged 55.
5, Vitya Baba Tookya, Khaikadee, aged 60.

Dacoity; and belonging to Gangs of Dacoits while engaged in Dacoity.

Charge.—Under Act XXIV. of 1843, with being Dacoits by profession, and with belonging to gangs of Dacoits while engaged in Dacoity.

Remarks by the Officiating Assistant General Superintendent, in respect to Prisoner No. 3.—The prisoner was arrested in company with one Hunma Naik, a registered Dacoit Naik, on the 17th December. On arrival, he was immediately confronted with the approvers.

No. 2.—Approver Purwah at once without hesitation said the prisoner was Doorgah, who had been with him at the Nundgaum Dacoity. He had forgotten to mention his name in his narrative, but he had no doubt as to the identity of the prisoner.

No. 3.—Approver Yessoonka wulud Morspilee knows

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the prisoner to be Jalgar Doorgah, and states that he was concerned with him in a Dacoity at Nundgaum. Witness at that time belonged to the gang of Pursia Naik. In his narrative he mentioned the prisoner as an accomplice in Nundgaum.

No. 4.—The rest of the approvers do not know the prisoner.

No. 5.—Extract from confession of prisoner Pursia Naik, the man alluded to by witness No. 3, given before the Mamlutdar of Padshapoor, dated 21st February 1853.

In this he confessed to having committed the Dacoity at Nundgaum; and among his accomplices names Soonka (No. 3), Purwah (No. 2), Doorgah (prisoner).

No. 6.—Nujeeb Syud Hydur speaks to the arrest of the prisoner, with others, and that some of prisoner's associates fled.

No. 7.—Shows that the Dacoity at Nundgaum took place on the 27th January 1849.

No. 8.—Prisoner denies the charge altogether, and states his name to be Gungaram wulud Bheema.

The above, although not quite sufficient evidence according to the rules in force in this Department, which require that a prisoner should have been concerned in crime with two approvers, and be known as a habitual Dacoit to at least two others, still the evidence is sufficient to show what the prisoner's character is, and that he should be placed under surveillance. Ordered that the prisoner Jalgar Doorgah oorf Gungaram wulud Bheema be directed to furnish two securities of fifty (50) rupees each, for his good behaviour for the period of one (1) year, or in default to be confined in the Dharwar Jail for one (1) year, under the provisions of Section XXVII. Regulation XII. of 1827.

Remarks by the Officiating Assistant General Superintendent, in respect to Prisoners Nos. 4 *and* 5.—Pri-

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soner No. 4 was arrested by the Raja of Akulkote, on a charge of Dacoity at Chickulee, in that State. This charge not being proved, he was handed over to the Dacoity Department, where he had been for some time known, and registered as Dacoit No. 5723.

Approver Bheemshya (No. 2) knows the prisoner to be a Dacoit, and was concerned with him in a Dacoity at Pudnoor 2nd. This fact he mentioned in the narrative given in by him, when admitted approver.

Gid Bhowanee (No. 3) also knows the prisoner to be Sungsar Boodha, a Dacoit, and was concerned with him in a Dacoity at Oujee, in the Sholapore Zillah. This circumstance is detailed in his narrative, the prisoner being named as an accomplice.

Approver Nad Tookya, and Galkat Bhawane (No. 4) know the prisoner to be Sungsar Boodha, but have not committed robberies with him.

Approver Kurta Sutwah, Ekankhee Kalolia, Sorapooree Kulolia, and Jamgar Tooljia (No. 5). The three former do not know him, the latter only by sight.

No. 6.—Knows prisoner, but has committed no robberies with him. This approver was in the Dacoity at Chickulee, for which the prisoner was seized, but says that he, the prisoner, was not engaged in it. This is true; but although prisoner was not actually engaged in the commission of the Dacoity, for which there was a good cause, he having that very day been put in confinement by the Police (No. 25), there is no doubt whatever that he belonged to the gang who committed it, as he lived in the same hut with some of the real Dacoits, one of whom was wounded.

Approver Dadya (No. 7) knows the prisoner, but has not robbed with him.

Approver Purakurmee Naik, in a deposition (No. 8), through the Extra Assistant General Superintendent at

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Hydrabad, dated 5th January 1854, states he knows the prisoner to be Sungsar Boodha wulud Anseerah Khaikadee, age 50, vagrant. Has committed a Dacoity with him at Nuldroog, on the house of a Brahmin. Rs. 300 were obtained. This occurred about seventeen years ago.

Approver Bheema (No. 9), before transferred to Hydrabad, gave evidence in proceedings No. 13 of 1853, regarding the Dacoity at Oujee, in which he was concerned, and in which he stated that the prisoner was an accomplice.

No 10.—Prisoner No. 5 was previously registered as a Dacoit at large, and subsequently arrested on the information of two approvers, Jamgar Tooljia and Totug Nursia, who, in their narratives, gave in his name as an accomplice in several Dacoities each, viz. Jamgar Tooljia at Pudnoor, Koodree Kunoor, Nimbal Luchun; and Totug Nursia at Pudnoor, Koodree Kunoor, Nimbal Budoor, Bulolee Huturgee. He was arrested on the 16th December 1854, by a party of Nujeebs, under command of Duffedar Bhowaneesing, at Boodihal, Sholapore, and received at Belgaum, through the local authorities, on the 9th January 1855.

No. 11.—Approver Golkut Bhowanee wulud Baboo knows the prisoner No. 5, and was concerned with him in a Dacoity at Pudnoor 1st.

No. 12.—Approver Nad Tookya Naik knows prisoner No. 5 as a Dacoit, &c., and knew his father and son. The latter was transported with his own brother.

No. 13.—Approver Bhed Tookya knows the prisoner No. 5 to be a Dacoit, but has not himself robbed with him.

No. 14.—Was concerned with prisoner in a Dacoity at Oujee.

No. 15.—Approver Bheema, now at Hydrabad, in a case, No. —— of 185—, in which the Dacoity at Oujee was proved, gave in prisoner No. 5 as an accomplice in that affair.

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In his confession before the Assistant General Superintendent, on the 1st November, a prisoner named Gola Bheema mentioned the name of Neelya, being that under which prisoner usually went, as an accomplice of his in the crime of Dacoity.

No. 17 shows that the Dacoity at Pudnoor 2nd actually occurred on the 4th February 1848, on the house of Ram Bhut.

No. 18 details the circumstances of the Dacoity on his house.

No. 19.—Police Patel of Pudnoor shows that two Dacoities have been committed in his village, at different times.

No. 20.—The evidence of the owner of the house attacked at Oujee.

No. 21.—Patel of Oujee states that a Dacoity occurred on the house of Satya bin Rewuna, Mochee of Oujee.

No. 22 knows both the prisoners. No. 4 is called Bheema, No. 5 Neelya. No. 4 lived in his village, No. 5 a little way out of it. He speaks to their general well-known bad characters, &c.

Nos. 23 and 24 are to the same effect.

No. 25.—Jemadar of Police in Akulkote states:—Seized prisoner No. 4 at Nagunsoor, as a suspicious character. Prisoner at the time said he was living with others of his caste in the neighbourhood. This was corroborated. The day after, the prisoner's associates were seized. One was wounded in a Dacoity, which they confessed to have committed over night.

No. 26.—Prisoner No. 4 states his name is Bheema wulud Bhoodoo, age 55. Denies the charge. Does not know the approvers.

No. 27.—Prisoner No. 5. He cannot furnish the security asked for; states his name is Neelya wulud Raout Raya, inhabitant of Koomptee. Denies the charges against him. Does not know the approvers. His name

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is not Vitya Baba. He cannot furnish the security required.

No. 28.—The depositions of the Police Authorities of the neighbourhood of Koomptee, in which they speak to the bad character of prisoner No. 4.

The amount of evidence recorded against both the prisoners in this case would be quite sufficient to warrant their commitment, under the provisions of Act XXIV. of 1843, as Dacoits by profession; but as it would be necessary to bring two of the witnesses from Hydrabad, which would be inconvenient, and as the prisoners are both old men, the Assistant General Superintendent is of opinion that it will be sufficient if the prisoners are kept for a period under the immediate eye of the Authorities.

Ordered, that prisoner No. 4 (Sungsar Boodha, General No. 5723), and No. 5 (Vitya Baba, General No. 5682), be required to find each two unexceptionable securities of two hundred (200) rupees each, for their good behaviour for the period of one (1) year, in default to be confined, under the provisions of Section XXVII. Regulation XII., for the period of one (1) year, in the Sholapore Jail.

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Officiating Assistant General Superintendent.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of your Criminal Return for January last, and to request you will have the goodness to submit the proceedings requiring security in the cases of the prisoners Nos. 3, 4, and 5.

Reply from the Officiating Assistant General Superintendent to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to acknowledge the receipt of your letter No. 407, dated 19th February 1855, and with reference to the orders of the Judges of the Sudder Foujdaree Adawlut, herein expressed, to forward my

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proceedings in the cases of prisoners 3, 4, and 5, of the Monthly Criminal Return for January 1855.

Precept issued by the Sudder Foujdaree Adawlut to the Officiating Assistant General Superintendent.—The Court would not interfere in the case of Jalgar Doorgah (prisoner No. 3), but the Superintendent is to be told, that as he is of opinion that there is sufficient evidence procurable for the committal for trial, under Act XXIV. of 1843, of Sungsar and Vitya, he should follow that course; and the Court accordingly annul the order for security, a procedure not applicable to the prisoners' cases.

Return of the Officiating Assistant General Superintendent to the Precept of the Sudder Foujdaree Adawlut.—The Officiating Assistant General Superintendent has the honour to report that the Session Judge of Sholapore has been requested in letter No. 53, dated 10th instant, to hand over the prisoners Sungsar Boodha and Vitya Baba Tookya to the Magistrate of Sholapore, for re-transmission to this Office, with a view to further proceedings being taken against them.

Execution of this Precept is hereby certified to the Judges of the Sudder Foujdaree Adawlut, given under the seal and signature of the Assistant General Superintendent of the Operations for the Suppression of Thuggee and Dacoity, at Camp Beejapoor, this 10th day of April 1855.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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AHMEDABAD.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 12 of the Calendar of the Ahmedabad Sessions Court for 1855. Committed by Mr. H. B. LINDSAY, Third Assistant Magistrate, on the 27th January 1855. Tried by Mr. H. NEWTON, Acting Session Judge, on the 27th and 28th February, and 1st and 2nd March 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Murder; and Instigating and Aiding in Murder.

Prisoners.—No. 1, Jumnee, Daughter of Kalcedas Kupoorchund, and Concubine of Lukmeechund Kursundas, Dusashurmalee, aged 25.

2, Mohunlal Jetha, Deesavalwanee, aged 30.

Charge.—Against prisoner No. 1 (Jumnee), murder; in having, on Saturday, January 6th, 1855, (corresponding with Poush Wud 3rd, Sumvut 1911,) in the city of Ahmedabad, Zillah Ahmedabad, wilfully, and without justifiable or extenuating cause, deprived of life one Huree Kursun Nursing, by giving him some 'kichree' and vegetables to eat, in which a poison called 'vuchnag' (a species of aconite) was mixed, the said Huree Kursun Nursing having eaten some of the food thus poisoned, and died from the effects on the same night.

Prisoner No. 2 is charged with having instigated and aided in the said murder.

The prisoners plead not guilty.

Finding and Sentence by the Acting Session Judge.—The prisoner Jumnee is a woman of immoral character. She admits, and the evidence conclusively shows, that for some six or seven years previous to his death she had been on intimate terms with the deceased Huree Kursun, who used to be often at her house, and now and then to remain there for two or three days at a time. The

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mother and wife of the deceased state that he squandered large sums of money on her; but on this point their evidence is necessarily very vague. An hour or two after midnight on the night of January 6th last (or more properly on the morning of January 7th), several persons living in the immediate neighbourhood of the prisoner Jumnee were roused by hearing some one calling out, "I am dying; I am dying!" and being afraid to venture near themselves, they went to the nearest Chowkee, and brought the Police. Huree Kursun was then found lying on the road close to the steps of Jumnee's house, with a single cloth round his loins, and apparently very ill. A large number of witnesses have been examined as to the statements which he then made, when questioned as to what had happened. Their depositions are recorded Nos. 9, 11, 12, 13, 14, 15, 16, 17, 18, and 19. The concurrent testimony of all these deponents shows that the dying man's words were to the effect that his kept woman, Jumnee, had given him something to eat in some 'kichree' and 'vuntyak,' which had parched up his throat, and made him so ill, that he begged at once to be taken to the hospital. Every deponent except one expressly mentions the kichree and vuntyak as the articles of food in which the deceased stated that the poison had been given to him. One deponent makes the deceased say that Jumnee *and Mohunlal* had given him the food, but this is shown to be an error by the unvarying evidence of all the other deponents—that Jumnee alone was mentioned in this connection. On being further asked how he came to be in the street, it is in evidence that the deceased stated that Jumnee and Mohunlal had thrust him out of the house. Deceased was immediately put on a cot, and carried to the hospital. He spoke no more, however, and when the cot reached the hospital, it was found that he was dead. As no deposition, therefore, could be taken from the dying

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man by any constituted Authority, it has become important to determine with precision the declarations which he made to others; and the evidence on this point is so abundant, that his words have been accurately ascertained. These declarations were made not more than half an hour probably before deceased's death; at a time when he must have considered himself on the point of death, and after he had been heard by several to say that he was dying. Several witnesses also depose that he repeated over his declarations to the prisoner Jumnee, after she had been called out of her house.

As far, therefore, as the dying man's words are judged worthy of credit, so far is the charge brought home to the prisoner Jumnee. The other points in evidence against her are as under:—

She admits that he came to her house on the afternoon of the day in question, and that he sat there an hour or two; but states that he afterwards went away, and that she was left alone, when she closed her house door at 8 or 9 P. M. Deponent No. 9, however, states that he heard Huree Kursun talking in her house at seven or half-past seven on that evening, and the deposition No. 10 appears to prove that he and Jumnee were there together at a much later hour, probably 9 or 10 P. M.

The prisoner Jumnee further admits that she had been eating kichree and vuntyak on the evening of Huree Kursun's death, and it was in these two dishes that deceased alleged the poison to have been given to him. Jumnee admits that prisoner did at times eat with her. She is shown to have virtually put him out of caste, by making this known to others; and it is proved that he did not eat any meal on that day, or during the four or five preceding ones, at his own house. Jumnee, however, denies that he ate either the kichree or the vuntyak (a cooked vegetable) with her.

The locality in which deceased was found confirms the

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evidence against Jumnee. He is shown to have been discovered lying almost in contact with the steps leading up to her house door. A point against her, but one on which it would not be right to lay much stress, is the circumstance that she did not, till called, come out of her house, which was nearest to the place where deceased was lying, though a large number of the inmates of houses in the vicinity had previously been aroused, and gone some distance to call the Police Peons. A circumstance of much more importance is the dress of the deceased when he was first seen lying on the road. He had but a single cloth round his loins, no turban, and no upper garment. The necessary inference is, that he had most unexpectedly and suddenly left some house in the immediate neighbourhood, since no witness who has been questioned on the point had ever seen him so destitute of clothing before; and this inference is made to bear with exceeding weight against the female prisoner by the deposition No. 10, which shows that deceased was dressed exactly in this manner when last seen alive in her house, about four or five hours before his death.

When the deceased was removed to hospital, Jumnee was taken into custody, and her house was secured with locks. Next morning it was searched by the Foujdar and some Police Peons, and other circumstances bearing against her were brought to light. The chief of these is the discovery of a saucer containing some cooked vuntyak. Jumnee admits that it was found in her house, but states that it had remained over from the previous day. It was examined shortly afterwards by the Civil Surgeon, who has deposed that he found in it in large quanity a species of aconite called vuchnag, which is a powerful narcotic poison. The deceased's declaration as to the mode in which he had been poisoned is thus borne out, not only by the discovery of a poison sufficiently violent to produce the effects manifested,

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but also by its having been found mixed up in the kind of food in which he stated that it had been administered. The Civil Surgeon, on making a *post-mortem* examination of Hurce Kursun's body, found mixed with the food in his stomach a large quantity of vuchnag, which he considered to be identical with that observed in the saucer. The aconite is not discoverable by chemical tests; but the Civil Surgeon deposes that he found fragments sufficiently large to allow of comparison with some purchased from the bazar; while the odour, and the congested state of the stomach, confirmed his opinion.

It is to be regretted that the vomited matter found in the inner part of Jumnee's house was not examined by the Civil Surgeon. The witnesses who saw it noticed it to contain vuntyak, and the ingredients of kichree (rice and 'dal'); and as deceased was seen to vomit when outside the house, the presumption is very strong that the matter noticed inside the 'chouk' was the result of the first effort of the stomach to eject the poison. Jumnee, when it was pointed out to her, stated that she had eaten kichree and vuntyak, and then taken tobacco, which had made her vomit it; but her statement is not only not borne out, but contrary to probabilities, since she is shown to have appeared well when apprehended, and was not noticed to vomit afterwards.

A large number of articles found in Jumnee's house have been uselessly brought before the Court. Some of them, however, add materially to the evidence against this prisoner. The mother and wife of the deceased depose that two articles of clothing, a bundle of cord, and a 'sooparee' knife, were the deceased's property. Deponent No. 26 corroborates their depositions as to one of the clothes, the bundle of rope, and the sooparee knife; and the prisoner herself admits that the smaller cloth and the cord belonged to deceased. This cloth Jumnee alleges to have been brought by deceased to her house,

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about ten days before his death; but the deceased's wife states that it was worn by her husband under his 'dhotur' the last time she saw him alive, *i. e.* about six days before his death.

The evidence shows a sufficient possible ground of ill-feeling to account for the crime, and proves the actual existence of malice between Jumnee and the deceased. In her statements, confirmed before the Court, she admits that she had refused to keep him in her house, and says that he used to keep arsenic about him, with a view, as he told her, to poison her and himself, unless she acceded to his request. It is evident that these grounds for jealousy and variance must have been continually arising between parties associating on such a footing. The depositions Nos. 21 and 23, and the Exhibits Nos. 22 and 24, further prove, that in July last Jumnee and the deceased were brought into the Civil Hospital labouring under symptoms resembling those resulting from poison, and that the former charged the latter with having administered poison to her in some kichree. This occurrence furnishes complete evidence as to the existence of a probably sufficient motive in the mind of Jumnee for endeavouring to poison the deceased; but in other respects, the Court looks upon it as very mysterious, since, while it now appears likely that both parties were suffering from the effects of poison, there is no way of accounting for the administration of poison to more than one of them, unless it be supposed that the other intended to commit suicide.

The evidence against the prisoner No. 2 (Mohunlal) is utterly inadequate for his conviction. It consists merely of testimony by some witnesses, that they had seen him two or three times at Jumnee's house, but in no case later than several days before Huree Kursun's death; and proof as to the declaration by deceased that "Mohunlal and Jumnee" had pushed him out of the house. It

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appears established that deceased spoke to this effect; but on the evidence recorded by Mohunlal, it must be supposed that he was not in Ahmedabad at the time. The evidence against him being so insufficient, the Court would not have called upon him for a defence, had it not been judged desirable to determine whether Jumnee acted singly, or was assisted by some one in the crime. As no one saw Mohunlal at her house for some days before Huree Kursun's death, as deponent No. 10 saw no third person with deceased and Jumnee a few hours before the former died, and as no one but Jumnee was discovered in the house when it was first searched after Huree Kursun had given the alarm, there would seem to be no ground for calling on Mohunlal to prove that he had no part in the crime; but, on the other hand, it is difficult to give a reason why the deceased should, almost *in articulo mortis*, have charged him falsely; and as difficult to show how the woman Jumnee could unassisted have put the deceased outside her house, unless, perhaps, she prevailed on him to walk out before he became utterly prostrated. It appears, also, somewhat remarkable, that the deceased's turban has not been found.

Jumnee has suggested that deceased may have committed suicide; but the supposition is at variance with all the circumstances of the case, and especially with the deceased's earnest request that he might be taken to the hospital; his being found in the state deposed to outside her house; and the discovery of poisoned food in her house, while she had evidently not partaken of it. The witnesses whom she has called in her defence (Nos. 34 and 35) rather damage her case than improve it.

On the above grounds, the Court finds the prisoner Jumnee guilty of murder; in having, on Saturday, January 6th, 1855, (corresponding with Poush Wud 3rd, Sumvut 1911,) in the city of Ahmedabad, Zillah Ahmed-

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abad, wilfully, and without justifiable or extenuating cause, deprived of life one Huree Kursun Nursing, by giving him some kichree and vegetables to eat, in which a poison called vuchnag (a species of aconite) was mixed, the said Huree Kursun Nursing having eaten some of the food thus poisoned, and died from the effects on the same night.

Under all these circumstances, the Court passes the following sentence, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut :—

That you, Jumnee, daughter of Kaleedas Kupoorchund, be transported beyond seas, for the term of your natural life, under Regulation XIV. of 1827, Section XXVI. Clause 4th.

The prisoner Mohunlal is acquitted, and discharged.

* * * * * *

The Court remarks, that the Assistant Magistrate should have stated in the charge what the specific act of instigating and aiding was, for which the prisoner Mohunlal was committed.

Minute recorded by Mr. M. Larken.—The evidence in this case fails to convince me of the prisoner's guilt. There is nothing inconsistent with the supposition that the deceased committed suicide, as he attempted to do before, and, at the same time, endeavoured to destroy the prisoner, by accusing her of his murder, as, on the previous occasion, there is every reason to believe he attempted to destroy her by poison. His accusation of Mohunlal, the propriety of whose acquittal is unquestionable, ought to be sufficient to throw such discredit on his dying declaration, as to prevent its operating against the female prisoner.

I would acquit her, and order her to be discharged.

Minute recorded by Mr. W. H. Harrison.—The deceased was found late at night lying in extremity at the door of the prisoner, a prostitute, with whom he had

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associated. He was carried out at his own request to the hospital, accusing her of having poisoned him, and arrived there a corpse. His body exhibited the ordinary symptoms of poisoning from vuchnag, or aconite. Jealous differences are shown to have existed between prisoner and deceased, and articles sworn to be his were found in her house, he being on discovery scantily clothed. The deceased was vomiting when discovered, and the interior of prisoner's house exhibited indications of vomiting also. The prisoner and deceased were seen together in the house a few hours before, and the prisoner denies his presence at that time. She gives no satisfactory explanation of the circumstances which so strongly lead to the conclusion that she is guilty, and I would confirm the conviction.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

Minute recorded by Mr. A. Remington.—Whether Jumnee administered poison to deceased, or he took it, with the double purpose of committing suicide, and falsely charging the prisoner, is doubtful; but considering his late attempt to destroy both himself and Jumnee, I do not think that any reliance can be placed upon his assertion, which, in respect to Mohunlal, was proved to be untrue.

Indeed, after what had so lately occurred, it seems improbable that either party would consent to partake of food not prepared by himself, and the safer course would be to acquit the prisoner, as proposed by Mr. Larken.

Final Resolution of the Sudder Foujdaree Adawlut.—The prisoner is acquitted, and is to be discharged.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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POONA.

[Case of Mahomed wulud Laloobhaee, tried by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 27th December 1854. Reviewed by Mr. R. KEAYS, Session Judge, on the 28th March 1855. Proceedings submitted for final decision of the Sudder Foujdaree Adawlut, by the Session Judge.]

Forfeiture of Recognizance Bond.

Prisoner.—Mahomed wulud Laloobhaee, Butcher, aged 25.

Charge.—Forfeiture of recognizance bond (Regulation XII. of 1827, Section XXVI. Clause 2nd); in that, under date 19th December 1854, (Margsheersh Wud 15th, Shuké 1776,) during the day-time, in Peit Kusba of the city of Poona, you abstracted from the person of Hoomda Bee, a girl eighteen months old, and daughter of the complainant Alee Khan wulud Dawood Khan, a silver necklace, valued at Rs. 3, in contravention of the terms of a recognizance bond entered into by you under date 17th August 1854.

Finding and Sentence by the Deputy Magistrate, confirmed by the Magistrate on the 15th January 1855.—The prisoner stands charged with having robbed the complainant's infant daughter of a silver necklace, and he pleads not guilty.

The complainant Alee Khan, who appears to be a very respectable man, and whose testimony, therefore, deserves every credit, states that he saw the prisoner abstract the ornament, and run away; the statement being corroborated by the evidence of witness No. 3, (Rajoobhaee), who deposes to the fact of the prisoner running away from the complainant's house.

Complainant further solemnly avers that the prisoner confessed having stolen the ornament, and flung it into the Nagjuree, the fact of the confession being amply corroborated by the testimony of witnesses Nos. 3 to 6.

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Another important statement has been solemnly made by the complainant, viz. that prisoner and his mother Kondun dropped Rs. 3 into his hands, by way of compensation for the loss.

Upon the whole, the case appears to be very strong for the prosecution.

To turn to the defence. The prisoner denies knowledge of the robbery *in toto*, and ascribes the present charge against him to malice on the part of the complainant, in consequence of his refusing to let complainant have a seer of mutton without being paid for it. Looking to the respectability of the complainant, and the prisoner's notoriety, which has been further on alluded to, the Deputy Magistrate is not at all prepared to believe Mahomed's story.

The prisoner urges, moreover, that complainant extorted a sum of Rs. 3 from his mother Kondun (witness No. 10), in the shape of a bribe, and brings forward two witnesses, Nos. 8 and 9, in support of his assertion. The mother has stated in her deposition, taken by the executive Police, that "complainant explained to her that prisoner had got into trouble, and asked for Rs. 3, to be paid to a Brahmin"; whereas, from the statements of the two alleged witnesses, it would appear as if not a word had been exchanged between complainant and Kondun.

Beram (witness No. 8) states that the prisoner's mother had to go to a little distance from her house to procure the cash, which she obtained from two individuals; that all that while the complainant was seated near her house. Wuzeerbee (witness No. 9), on the contrary, states that Kondun took the money off her person, and paid it immediately to the complainant, without having to go anywhere for it, or the complainant to sit down at all. Under such gross discrepancies, the Deputy Magistrate cannot but look upon the line of defence which the prisoner has assumed as a very lame one.

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After a mature consideration of the evidence adduced *pro* and *con* in this case, the Deputy Magistrate does not feel the slightest hesitation in recording conviction against the prisoner. The forfeiture of his recognizance bond being therefore proved against him, and he being an old offender, as shown by his own statement, which the Deputy Magistrate knows to be correct, prisoner is sentenced, in accordance with the terms of the said bond, to pay a fine of one hundred (100) rupees, commutable to imprisonment with hard labour, for one (1) year. (Regulation XII. of 1827, Section XXVI. Clause 2nd.)

Sentence subject to confirmation by the Magistrate. (Regulation IV. of 1830, Section III.)

Letter from the Session Judge to the Magistrate.—I have the honour to request your attention to the proceedings of the Deputy Magistrate in the case of Mahomed wulud Laloobhaee, dated the 27th of December last, in which the prisoner was adjudged to have forfeited his recognizance, and was sentenced to pay its amount, Rs. 100.

This was confirmed by you on the 18th of January following.

The proceedings have come before me under Clause 3rd Section III. Regulation VIII. of 1831.

It appears to me that the proceedings are irregular.

The prisoner is charged with the forfeiture of his recognizance bond, and tried for a robbery.

It is quite true that the conviction of the robbery might cause the forfeiture of the recognizance; but he ought to have been charged and convicted for the robbery first, and thereafter declared to have forfeited the recognizance.

If you concur with me in this view of the case, I would suggest that the present proceedings be quashed, as not being according to law and practice, and a new trial for the robbery held.

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Reply from the Magistrate to the Session Judge.—In reply to your letter of the 26th ultimo, I have the honour to inform you that the case has been prepared, as it now stands, agreeably to instructions from the Sudder Adawlut, in which the trying Authority was directed to choose whether the prisoner should be tried for the forfeiture or the substantive offence, and it is usual in instances of the former to make the forfeiture the subject of the charge; but it strikes me that it would be more regular, in a case like this, to have charged the prisoner with theft, and consequent forfeiture; and give sentence agreeably to the terms of the bond.

The proceedings in the case are returned.

Reviewed by the Session Judge.—The prisoner Mahomed wulud Laloobhaee, who was sentenced by the Deputy Magistrate, Mr. Nana Morojee, on the 29th December 1854, for the forfeiture of his recognizance, to pay a fine of Rs. 100, commutable to one year's imprisonment, which sentence was confirmed by the Magistrate on the 15th January 1855, presented an appeal petition to the late Session Judge, Mr. LeGeyt, for the reversal of the said sentence, who called for the papers and proceedings connected with the prisoner's case, and wrote a letter to the Magistrate, intimating to him that the prisoner ought to have been charged with, and convicted of robbery first, and thereafter declared to have forfeited the recognizance; and desiring him to quash the present proceedings, and hold a new trial for the robbery.

But the Magistrate in reply stated that the case was prepared in compliance with the instructions contained in the Circular of the Sudder Foujdaree Adawlut, No. 98, dated 9th January 1852.

The Court therefore directs the whole correspondence to be forwarded to the Judges of the Sudder Foujdaree Adawlut, for their consideration and final decision.

Letter from the Session Judge to the Registrar of the

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Sudder Foujdaree Adawlut.—I have the honour to forward an extract from my proceedings of this day's date, held in the case of the prisoner Mahomed wulud Laloobhaee, together with the case and correspondence, to be laid before the Judges, for their consideration and final decision.

Minute recorded by Mr. M. Larken.—I find no cause for interference.

Minute recorded by Mr. W. H. Harrison.—In this case, the prisoner was charged with forfeiture of his recognizance bond, in having committed a robbery; and is tried and sentenced, not for that crime,—robbery,—of which no conviction is recorded, but for the said forfeiture.

I concur with the Session Judge as to the irregularity of these proceedings, which should be quashed; and the Magistrate instructed, that the prisoner ought to be indicted for the robbery, and if convicted and sentenced for that offence, then not tried again, but proceeded against for the forfeiture of his bond, the penalty of which should be enforced.

The Magistrate should be referred to the Court's Circular No. 472, which lays down the course to be followed in cases of recognizance as well as security, and supersedes that of the 9th January 1852, quoted by him, as is evident from the latter not having been printed and published for general guidance.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge.

Minute recorded by Mr. A. Remington.—I altogether dissent from the views expressed by the Court in Circular Order No. 98 of 1852, that to prosecute a party for the substantive offence, and for the breach of his recognizance, rests with the Magistrate; but that to punish him for the crime whereby he broke his recognizance, and afterwards for the breach of it, is tantamount to punishing him twice for the same offence.

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It appears to me, on the contrary, that two distinct offences have been committed, the substantive offence, and the forfeiture of the recognizance,—in itself an offence,—and that both might and ought to be proceeded with. The forfeiture is not, I would observe, necessarily connected with the substantive offence, as where the object of the bond is to secure the appearance of the accused at a trial, and he fails to appear. It might be that the bailer is innocent of the substantive charge; but if he failed to appear at the appointed time, whatever the result of the trial for the substantive offence might be, the money would have to be paid, or the alternative suffered in default.

I cannot, therefore, quite concur with Mr. Harrison, that the conviction and sentence for the substantive offence must invariably precede any notice being taken of the forfeiture, though, as a general rule, I think it correct procedure to do so. In respect to the sureties, however, the Court ruled in the case of Samta Dhurma, No. 41 of the Ahmedabad General Calendar for 1845, which was the forfeiture of a good conduct security bond, that the forfeiture of the penalty rests on the conviction of the principal.

In the present instance, the evidence on record proving the forfeiture, I would not interfere, though I am prepared to cancel the Circular alluded to, as containing erroneous views of what the law requires.

Minute recorded by Mr. M. Larken.—The Circular Letter No. 98, of the 9th January 1852, was issued because the Court had, a short time before, decided, on a petition from a prisoner in the Nassick Jail, that the Magistrate was wrong in punishing a party for the breach of his 'mochulka' to abstain from theft, upon the expiration of his sentence, passed for an attempt at theft, which constituted the breach of the mochulka. The Court said that, in the first instance, the prisoner

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ought to have been punished for the attempt, or for the breach of mochulka; not for both offences, one after another. The Circular laid down that such procedure was tantamount to punishing a party twice over for one offence; and I am still of the same opinion.

Additional Minute recorded by Mr. W. H. Harrison.—In regard to now cancelling the Circular Order of 9th January 1852, I have already recorded, that it seems to have been virtually recalled in its omission, as directed, from the Printed Orders. I also find that it has led to erroneous procedure, and I think it may be formally annulled.

Final Resolution of the Sudder Foujdaree Adawlut.—The Session Judge is to be informed, that the Court see no cause for interference.

A Circular is to be issued to the Magistrates, withdrawing the instructions contained in the Circular Letter No. 98, of the 9th January 1852.*

* This was accordingly done.

CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN MAY 1855.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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TANNA.

[Notices issued by Mr. G. B. SETON KARR, Magistrate of Tanna, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 25th April 1855.]

Notices by the Magistrate.

Notice, under Clause 6th, Section XIX. Regulation XII. of 1827, is hereby given, that whereas danger arises from draught-cattle being yoked without nose-strings to guide and restrain them: all persons are hereby prohibited from driving cattle in carts or other vehicles up or down the Thull Ghaut, or on the highroad between that Ghaut and the village of Kalher, without a 'vésun' or nose-string to each animal so employed.

Notice, under Clause 6th, Section XIX. Regulation XII. of 1827, is hereby given, that whereas danger arises from draught-cattle being yoked without nose-strings to guide and restrain them: all persons are hereby prohibited from driving cattle in carts or other vehicles up or down the Bhore Ghaut, or on the high-road between that Ghaut and Panwell, without a vésun or nose-string to each animal so employed.

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TANNA.

Notices by the Magistrate.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward to the Court of Sudder Foujdaree Adawlut, copies of two Mahratta Notices (with their translations) issued by me under Section XIX. Regulation XII. of 1827.

Resolution of the Sudder Foujdaree Adawlut.—The Court consider that the Regulation does not authorise the issue of these Proclamations, and they must be withdrawn.

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DHARWAR.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 149 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Dr. G. F. FORBES, Assistant Magistrate, on the 15th December 1854. Tried by Mr. A. W. JONES, Session Judge, on the 8th, 9th, 10th, 12th, and 13th February 1855. Proceedings submitted for the purpose of being laid before the Right Honorable the Governor in Council.]

Murder.

Prisoner.—Roodrapa bin Chunveerapa, Lingayeet, aged 28.

Charge.—Murder (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st); in having, in the village of Boojrook Turlegut, in the Hooblee Talooka of the Dharwar Division and Zillah, on Sunday, the 8th October 1854, (corresponding with Ashwin Wud 2nd, Shuké 1776,) attacked his father, Chunveerapa, with a sword, and inflicted upon him therewith a number of wounds on the hands, arms, head, and neck, in consequence of which he, the said Chunveerapa, died in ten days, or on the 18th October following.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and pleads not guilty.

It appears that on the morning of Sunday the 8th

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October, and in the village of Boojrook Turlegut, a man named Sunkrapa heard some cries from a part of the house where he lived, which was occupied by his uncle; and going there, saw him in the verandah, bleeding from several wounds, and his son, the prisoner, standing close to him, with a naked sword in his hand. Sunkrapa called for assistance; and the prisoner, immediately on seeing him, ran into a room of the house, and shut himself in. The neighbours and the Police Patel soon assembled, and the father's wounds (by one of which his hand was cut off) were dressed, and the son was taken away to another house, under the directions of the Police Patel.

The next day, the District Police Officer arrived, and took down the father's deposition on affirmation, as well as the statement of the prisoner.

It appears, however, that the father died in ten days after having been wounded, as described above.

An Inquest was held on his body, which was proved before the Court, and it shows that the deceased died of certain sword-wounds; and the evidence in the case clearly proves that these were inflicted by the prisoner; and indeed he does not deny it, but his defence is that he was not in his senses at the time he inflicted these wounds.

In the deposition of the deceased, taken on solemn affirmation on the day after he was wounded, and proved before the Court, it is stated that the prisoner had been afflicted with fits of a kind of moody and irritable melancholy, ever since an attack of cholera which he had suffered from six or seven years ago, and that he was to a certain extent affected in this way at every change of the moon; and this is also stated by the prisoner in his own statement. But this is not supported by the evidence of his own wife, his brother, or his cousin (witnesses Nos. 2, 3, and 4), nor by that of the Civil Surgeon, under whose care he has been for some time.

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But the three persons of his family alluded to above all state, that ever since he had this attack of cholera, he has been subject, at long intervals of from six months to a year, to fits of irritable mental derangement, during which he is silent, moody, and easily provoked to anger; and his brother deposes to his having on one occasion run after him with a sickle in his hand when in one of these fits, intending, no doubt, to strike him with it, which, however, he was fortunately prevented from doing, by some of the standers by. One of the neighbours of the family, too, deposes to having seen the prisoner in this state, and the Police Patel and two other witnesses state they were quite aware of his having these fits, though they had not actually seen him affected by them. The family also state, that it was usual to shut the prisoner up in a room by himself when he had these fits, and that he had been thus partially confined on this account from the Friday or Saturday before he wounded his father.

There is no doubt, therefore, as to his being subject to fits of a description of mental alienation; and it appears from the evidence of the Civil Surgeon,* that such a

* *Civil Surgeon's Evidence.*

Q.—Will you state what you have observed of the prisoner's state of mind while in your charge, and whether he is now insane?

A.—The prisoner at the bar, Roodrapa, has for some time back been under close medical observation. No symptoms have appeared indicative of his being subject to periodical paroxysms of insanity, but he is evidently a person of low or weak intellect, and apparently devoid of cunning.

Q.—Will you look over the evidence of the witnesses in the case, and state whether it shows the existence of any form of insanity with which you are acquainted, as well as anything else that occurs to you with regard to the prisoner's state of mind at the time of committing this crime?

A.—Having carefully perused the evidence in his case, I am inclined to believe that the prisoner, at the time he committed the crime, must have been labouring under a recognized form of madness, which is

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state might follow from the effects of a severe illness, and that, from the evidence, he was of opinion that the prisoner is afflicted with a disease called "Homicidal Monomania," and that when these fits come on he is not a responsible being.

The Police Patel deposes, that on questioning the prisoner on the day the crime was committed, he observed his countenance was that of an imbecile person, and that he would give no answer to any questions put to him. On the next day, however, when examined by the District Police Officer, he seems to have been quite recovered again, and to have been able to give reasonable answers to any questions.

In addition to the above, it is observable that the evidence of the whole family goes to show that they all lived together on perfectly good terms; that there were no subjects of disagreement, nor any quarrel of any kind between the deceased and the prisoner.

Considering, therefore, that where a son kills his father without any provocation, or any assignable reason

termed *moral insanity*, or *homicidal monomania*, and which consists in a sudden and morbid impulse to commit murder.

The grounds on which I have come to this conclusion are, in addition to the apparently motiveless character of the murder, the evidence of the witnesses, with respect to periodical mental derangement ever since he had suffered from an attack of cholera some years before. Previous bodily disease, inducing cerebral irritation, is well known to be a prominent cause of the abovenamed mental disease.

The prisoner's statement that he was at the time perfectly unconscious of what he was doing is not worthy of credit, or rather, is refuted by the fact of his having attempted to escape or conceal himself. At the same time, I think it right to state, that being aware at the time that he was committing a criminal act would not be inconsistent with the existence of the mental disorder which I have mentioned.

I have not had personal experience of any instance in which paroxysms of insanity returned regularly at intervals of twelve months; but a person who has once been in that state of mind is, during the remainder of his life, subject to a return of it at any period.

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whatever, there must always be a strong presumption that the act is that of a madman, and that in this case the prisoner is also shown to be subject to fits of mental alienation, and that it is shown that he was in one of these fits immediately before he committed this act, the Session Judge is of opinion that there is sufficient ground to warrant the giving of a special verdict in his case, and accordingly decides that the prisoner was of unsound mind at the time he did the act charged against him, so as to excuse him according to law, and therefore acquits him of the charge of murder; and further directs that he shall be kept in safe custody in the Jail at Dharwar, until the pleasure of Government can be known thereon. (Act IV. of 1849, Sections I. II. and III.)

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour, under the provisions of Act No. IV. of 1849, to forward, for the purpose of being laid before the Right Honorable the Governor in Council, a counterpart of my proceedings held in the above case, wherein prisoner Roodrapa bin Chunveerapa has been acquitted of the charge of murder, on the ground of his being of unsound mind when he committed the crime, and has been ordered to be kept in Jail, until the pleasure of Government can be known in his case.

Minute recorded by Mr. W. H. Harrison.—Had the acquittal of the prisoner in this case rested altogether upon the opinion of the Civil Surgeon, that he is afflicted with a disease denominated homicidal monomania, the prominent symptom of which seems to be explained as an irresistible impulse in a person, otherwise sane, to commit murder, I must have hesitated to confirm the proceedings. It would be dangerous to admit the soundness of such a dictum. A like opinion was, as is in my recollection, disposed of by an eminent living Judge in England, who charged a jury in respect to

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medical evidence to this effect, that if it were the case, as asserted, that the prisoner then on his trial had an incontrollable impulse to commit murder, the law had an incontrollable impulse to punish him for it.

In the present case, I concur in the conclusion of the Session Judge, as derived from the other evidence recorded, that the prisoner killed his father in a fit of madness, such as he had been attacked with on previous occasions, and consider that he was rightly acquitted on the ground of insanity. The proceedings should therefore be laid before Government, with a view to the detention of the prisoner in proper custody.

Minute recorded by Mr. M. Larken.—I concur with Mr. Harrison in respect to the mischievous doctrine apparently held by the Civil Surgeon. Mr. Justice Erle, in Anne Brough's case, lately enunciated a condemnation of such a doctrine, similar to that adverted to by my colleague.

It would have been satisfactory if we had had evidence as to the general turn of mind of the prisoner; but there is no reason, I consider, to interfere with the special verdict of the Session Judge.

Resolution of the Sudder Foujdaree Adawlut.—The proceedings to be submitted for the orders of Government.*

* *Letter from the Registrar of the Sudder Foujdaree Adawlut to the Secretary to Government.*—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, in submitting the accompanying original extract from the proceedings of the Session Judge of Dharwar, and an extract from this Court's proceedings of the 21st and 28th instant, in the case of Roodrapa bin Chunveerapa, confined in the Dharwar Jail, to request, under the provisions of Act IV. of 1849, that the pleasure of the Right Honorable the Governor in Council may be intimated to the Court respecting this person.

I am further directed to request you will be pleased to return the proceedings of the Session Judge of Dharwar when no longer required.

Resolution of Government.—That the prisoner be detained in safe custody at Dharwar until a favourable opportunity occurs of sending

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 43 of the Criminal Return of the Magistrate of Khandeish for February 1855. Tried by Mr. T. WEEDING, Supernumerary Assistant Magistrate, on the 22nd February 1855. Reviewed by Mr. S. MANSFIELD, Magistrate, on the 7th March 1855. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Neglect of Duty as Village Police.

Prisoners.—No. 1, Toola wulud Juiba, Malee, aged 41.
2, Fazul Ahmed wulud Mahomed Eesum, Mussulman, aged 32.
3, Kamajee wulud Shrawun, Kolee, aged 30.
4, Huree wulud Maoojee, Kolee, aged 60.

Charge.—Neglect of duty as Village Police (Regulation XII. of 1827, Section XXXVII.); in having, on the 20th of November 1854, (Kartik Wud 30th, Shuké 1776,) at Jalgaum, Talooka Nusseerabad, failed, through negligence and delay, to apprehend the offenders in a robbery committed at the shop of Moolchund and Narayen Shet.

The prisoners plead not guilty.

Finding and Sentence by the Supernumerary Assistant Magistrate.—The prisoners are charged with negligence and misconduct as Village Police, prisoner No. 1, as Police Patel, being especially answerable. As regards

him to the Lunatic Asylum in Bombay, which should be reported to Government, in order that the requisite instructions may be issued for his reception there.

That the original proceedings of the Session Judge of Dharwar be returned to the Sudder Adawlut.

Final Resolution of the Sudder Foujdaree Adawlut.—Copy of the Resolution of Government to be sent to the Session Judge of Dharwar, with a request that he will comply with the exigencies of it.

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his conduct, it is alleged by Koondulmal (witness No. 2), that he did not search the house of Heerasing Rajpoot, though requested to do so. Koondulmal first stated as the grounds of his suspicion, that he had had a quarrel with Heerasing; but in his cross-examination, shows that Heerasing had only quarrelled with one Majiram, the father of his (Koondulmal's) joint master; but further, besides Koondulmal's unsupported statement, there is no evidence to show that he requested the Police Patel to search Heerasing's house at all, and had he done so, the Police Patel might justly have hesitated to do so with no further grounds of suspicion than a vague quarrel. This being the only substantial accusation against the Police Patel, he is discharged, for want of any evidence against him, as are also prisoners Nos. 3 and 4 (Kamajee and Huree).

The conduct of Fazul (prisoner No. 2), Police Sepoy, is remarkable, and can only be accounted for by supposing him to be in league with the Marwarees, between whom and the Police Patel there exists an enmity.

The entire account of the robbery labours under the suspicion of being fabricated; but allowing it to have taken place as narrated by Koondulmal, it is evident that the supplementary account of it given by Fazul is false throughout. In the first place, he would show that the Police Patel was not on rounds on the night of the robbery, but that he and Huree (prisoner No. 4) were.

This double assertion is pointedly met by the evidence of witnesses Nos. 4, 5, and 6, who, with Huree and prisoners Nos. 1 and 3, all show that the Police Patel was on rounds, and that Huree was not, but in attendance on the Survey Karkoon, who did not put up at the Chowree. Again, Fazul represents, that on coming back with the purse, he showed it to Huree and Luxamun at the Chowree, and then made search in the town; but this both Huree and Luxamun deny, and it is further proved

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false by the assertion of Fazul that he went to the Police Patel's house, but did not find him at home, and so quietly went back to the Chowree. Moreover, Fazul's account of meeting the three men is next to absurd; but allowing that he did so without any one hearing of it, his conduct still brings him under the charge, inasmuch as he was bound to have raised an alarm, and to have sought the Police Patel, instead of waiting till the Police Patel came to him at the Chowree, next morning.

Fazul states that he found the purse on his way back from the encounter with the three men; and yet it was so dark that he could not see if his stick hit them or not. A more probable solution of his coming by the purse is, that when he went to the river after rounds, instead of going for a natural purpose, he went and concocted the story of the robbery with the Marwarees, and received the purse to serve as evidence. Could this supposition be substantiated, the conduct of Fazul, as a Police Sepoy, would be deserving of the severest punishment; but the Regulations unfortunately limit the punishment in these cases to the amount of property lost.

As it is, the prisoner Fazul Ahmed wulud Eesum is found guilty of negligence; in not having caused proper and immediate investigation into the circumstance of his having encountered three suspicious characters, as narrated by himself, and confirmed by the circumstance of his producing the purse found by him on that occasion.

The prisoner is sentenced to pay a fine of thirty-nine (39) rupees, or in default to be imprisoned for six (6) months, with hard labour.

Reviewed by the Magistrate.—The Magistrate begs to observe, that the evidence is insufficient to establish the fact of the prisoner Fazul being in league with the complainant, and concocting a false charge of robbery, for the purpose of bringing the Police Patel into trouble, and neglect of duty can only be established

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against him ; and for this offence the sentence passed by Mr. Weeding is, in the opinion of the Magistrate, severer than it merits. The fine is therefore reduced to twelve (12) rupees (three months' pay), or three (3) months' imprisonment.

The Magistrate begs to point out, that the Assistant Magistrate has not mentioned, either in his English or Mahratta proceedings, that the sentence passed by him is subject to the confirmation of the Magistrate.

The Assistant Magistrate is requested to be more careful in future.

Resolution of the Sudder Foujdaree Adawlut.—The Court do not think that the spirit of the conclusion of Clause 1st Section IX. Regulation XIV. of 1827 allows of hard labour, which is not allowed by Section VIII. Regulation XII. for neglect of duty.

The hard labour is accordingly annulled.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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[Case No. 21 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. W. H. HAVELOCK, First Assistant Magistrate, on the 16th February 1855. Tried by Mr. A. W. JONES, Session Judge, on the 20th, 21st, 22nd, and 23rd March 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoner.—Hona bin Suntuma, Dhungur, aged 40.

Charge.—Murder (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st) ; in having, on Saturday the 12th August 1848, (corresponding with Shrawun Shood 13th, Shuké 1770,) in a nulla near Yendegeree, in the Keroor Pêta of the Badamee Talooka, in the Belgaum Division of the Dharwar Zillah, struck one Hoolapa bin Bhurmapa, while in the act of adultery with his (the prisoner's) wife, several blows on the head with a

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stone, from which blows he, the said Hoolapa, almost immediately died.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and pleads not guilty. It appears, that on the morning of the 12th August 1848, a resident of Yendegeree, witness No. 6, was going to the neighbouring village of Kurdeegood, when his notice was attracted by some groans. He went towards the place they seemed to come from, and found they proceeded from a nephew of his, by name Hoolapa, who was lying severely wounded in a little hollow, about 20 yards from the road. Finding he was so much hurt that he could not speak, the witness went and gave information to his family, one of whom came and carried him to the village; but he died in an hour or two after, without having been able to utter a word.

An Inquest was held on the body, which has been proved before the Court, and shows that he (the deceased Hoolapa) died from having been severely beaten about the head and face with a stone.

It appears from the evidence of the prisoner's brother-in-law, witness No. 8, that this man, Hoolapa, was once taken before the Village Police Patel in Kurdeegood by the prisoner, with his wife, and that he, the prisoner, then complained of having caught them together in a field in the act of adultery. This is proved also by witness No. 9, and is admitted in the prisoner's statement.

In this case, it is shown by the evidence of witness No. 5, the prisoner's wife, that she went to wash clothes at the nulla between the two villages on the morning in question, and that the deceased Hoolapa came there, and took her to a little hollow, not far off, and that while they were in the very act of adultery, a stone struck Hoolapa on the head; on which she jumped up, and seeing her husband, ran off to the village, and informed the Police Patel of what had happened. The Police Patel is now

dead, but there is no reason to doubt this story, since it agrees exactly with that given by her before the District Police Officer on the 13th August 1848, the day after the affair.

It is shown by witness No. 8, this woman's brother, that he found her 'saree' in this nulla on this morning; and witness No. 6 saw both the prisoner and this woman near this nulla in the early part of the same morning. Besides which, it is shown by the witnesses Nos. 5, 6, 7, 8, 9, and 10, that the prisoner was in the village up to the day of the murder, and that from that day he disappeared.

And it is shown by witness No. 10 that he was at last arrested in a village of His Highness the Nizam's Dominions.

The prisoner's defence is a denial, and an assertion that he was not in Kurdeegood, but in Khotapoor at the time of the murder; but the witness he called was unable to say on what day or date he came to Khotapoor; and the Session Judge considers, therefore, that the evidence is sufficient to warrant the conviction of the prisoner of the murder with which he is charged.

It is, however, shown that he did it in consequence of, and at a moment when he was receiving, the most violent provocation which a man can receive, and the very manner in which it was perpetrated shows it was done suddenly, and without premeditation; but the Session Judge considers it right to leave to the consideration of the superior Court the extent to which this should operate in mitigation of the punishment to be awarded.

The prisoner is therefore convicted of murder; in having, on Saturday, the 12th August 1848, (corresponding with Shrawun Shood 13th, Shuké 1770,) in a nulla near Yendegeree, in the Keroor Péta of the Badamee Talooka, in the Belgaum Division of the Dharwar Zillah, struck one Hoolapa bin Bhurmapa, while in the

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act of adultery with his (the prisoner's) wife, several blows on the head with a stone, from which blows he, the said Hoolapa, almost immediately died.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed :—

That you, Hona, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. A. Remington.—The prisoner was charged with having killed deceased Hoolapa at the moment of adultery with his (prisoner's) wife Awaka. Awaka admitted this to be true, and the Session Judge found that the murder was committed at a moment when the prisoner was receiving the most violent provocation which a man can receive, and the manner in which it was perpetrated showed that it was not done deliberately.

On a due consideration of all the circumstances of the case, especially the sudden irritation of mind in which the homicide appears to have been committed, on the deceased being unexpectedly found in the act of adultery, I would acquit the prisoner, and order his release.

Minute recorded by Mr. M. Larken.—The prisoner is convicted upon the evidence of his wife, and I do not think that the occasion was one on which the general rule of evidence, that a wife cannot be a witness against her husband, should have been departed from.

The English law declares that no provocation whatever can render homicide justifiable, or even excusable—the least it can amount to is manslaughter; and as the same principle is to be found in Section XXVII. Regulation XIV. of 1827, I would convict the prisoner of culpable homicide, and sentence him to one day's imprisonment.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner is convicted of culpable homicide, and sentenced to one day's imprisonment.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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[Case No. 24 of the Criminal Return of the Magistrate of Kaira for November 1854. Tried by Mr. F. F. ARBUTHNOTT, Third Assistant Magistrate, on the 22nd and 29th November 1854. Reviewed by Mr. A. ELPHINSTON, Magistrate, on the 30th December 1854, and by Mr. H. NEWTON, Acting Session Judge, on the 28th March 1855. Proceedings submitted for the orders of the Sudder Foujdaree Adawlut, by the Acting Session Judge].

Appropriation of Property by Breach of Trust.

Prisoners.—No. 1, Shamdas Valadas, Banyan, aged 74.

2, Dwarkadas Hureebhaee, Banyan, aged 36.

Charge.—Appropriation of property by breach of trust (Regulation XIV. of 1827, Section XL.); in having, some time between the months of May and August 1854, (corresponding with Wuishak Wud and Shrawun, Sumvut 1910,) removed, from two hundred rupees' worth of tobacco which had been entrusted to their care, about one hundred rupees' worth of the said tobacco, with intent to appropriate the same, and deprive the lawful owner, one Bhugwanjee Kubeerjee, of the same.

Finding and Sentence by the Third Assistant Magistrate.—The prisoners are charged with appropriation of property by breach of trust, and plead not guilty.

It is sufficiently proved that the complainant took the tobacco to Umrath, and there placed it in the house of a Brahmin; that he removed it from the Brahmin's house on account of some arrangement with prisoner No. 2, and the tobacco was placed in the house which prisoner

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No. 2 pointed out, and for the hire of which complainant agreed to give prisoner No. 2 Rs. 6, until the Dewalee. The question is, did the complainant entrust the tobacco to prisoner No. 2 or not? Complainant, and witness No. 4 on the record, state that they did; that they never sold it to the prisoners for Rs. 41, and that they never gave a receipt for that sum. The whole arrangement about keeping the tobacco was made with prisoner No. 2,—he took the rent paid for the house; and though the tobacco was placed in the house of prisoner No. 1, that being the house which prisoner No. 2 pointed out to complainant, nevertheless prisoner No. 2 was responsible for the tobacco. Witnesses Nos. 4, 6, 8, and 9 on the record corroborate complainant's statement about the search of the house of prisoner No. 2 at Gooragaum, and all agree that tobacco was found there. Witnesses Nos. 8 and 9 say that complainant stated at the time that it was not his tobacco. This appears doubtful. The Mookhee of the village was absent at the time, and the investigation was not at all properly conducted. Witnesses Nos. 11, 12, 13, and 14 state that the complainant and prisoner No. 2 were disputing at Woree about the tobacco, and does not appear to have been settled when they left.

In their defence, the prisoners state that they bought 1,000 bundles of tobacco for Rs. 41 from complainant, and produce a receipt to that amount, bearing the signatures of complainant and Jusu Nathen, who say that they never gave such a receipt. The witnesses to this receipt were not present when the money was paid: they say that the paper was brought to their respective shops, and they signed there; the signature made by the first witness of the receipt before the Assistant Magistrate differs from his signature on the receipt; and lastly, the writer of it does not know if the two witnesses were present or not, does not know where they signed, and the signature made by him before the Assistant Magis-

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trate differs from that on the receipt. On this document, therefore, no reliance can be placed. It must also be borne in mind, that prisoner No. 2 says, that out of the 1,000 bundles "I took 100 to my house, and 900 were put in the house of prisoner No. 1"; but the Karkoon who went there counted 960 bundles in the house of prisoner No. 1. Prisoner No. 1 states that only 849 bundles were in his house. Although suspicion falls upon prisoner No. 1, there is no evidence to prove anything against him, and he is therefore discharged; and the Assistant Magistrate sentences prisoner No. 2, under Regulation XIV. of 1827, Section XL. to pay a fine of two hundred (200) rupees; in case of non-payment, commutable to imprisonment for the space of twelve (12) months, with hard labour.

Out of the fine, if paid, one hundred (100) rupees to be given to the complainant, and the remaining one hundred (100) rupees to go to Government. The four bundles of tobacco to be returned to the complainant, and his receipt to be taken.

The remaining tobacco in the house of prisoner No. 1, at Oomrét, also to be given to complainant.

* * * * * *

Subject to the confirmation of the Magistrate.

Reviewed by the Magistrate.—On a reviewal of this case, it appears the prosecutor charges both the prisoners No. 1 (Shamdas Wulubdas) and No. 2 (Dwarkadas Hureebhaee) with having, by breach of trust, appropriated 112 maunds of tobacco, valued at Rs. 200, from the warehouse of prisoner No. 1, where it was deposited under the advice and direction of prisoner No. 2, who settled that prosecutor should pay a warehouse charge of Rs. 6 for having it deposited there.

The Assistant Magistrate has discharged the prisoner No. 1, but convicted and sentenced prisoner No. 2 on the above charge.

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From the evidence of prosecutor (witness No. 2), and his witnesses Nos. 4, 5, 6, and 7, the charge is quite sustained.

The defence set up by prisoner No. 1 is that he bought 1,000 bundles of tobacco from prosecutor for Rs. 41, and out of that quantity sold 100 bundles to his fellow prisoner (No. 2) for Rs. 4-1-6, which prisoner No. 2 admits to be the case.

This defence does not, however, meet the charge; for prosecutor has charged prisoners with having made away with 112 maunds of tobacco; and computing each maund to contain $22\frac{1}{4}$ bundles of tobacco would make 2,472 bundles, valued at Sheeashaee Rupees 224, or Company's Rupees 200; whereas prisoners only profess to have obtained from prosecutor by purchase 1,000 bundles, for Rs. 41.

Prosecutor's witness No. 4 observes, in his evidence before the Third Assistant Magistrate, that 40 maunds of tobacco were found on searching the warehouse of prisoner No. 2, but the remaining 72 maunds lodged by prosecutor were missing. But even the prisoners' statement, that they actually bought only 41 maunds of tobacco from prosecutor, cannot be admitted as an established fact. They attempt to prove this by a document (No. 19), which they call prosecutor's receipt for Rs. 41. This document specifies that prosecutor (witness No. 2), and his witness No. 4, gave prisoners a writing on unstamped material, declaring that, for ready money received, viz. for Rs. 41, they sold 1,000 bundles of tobacco to prisoner No. 1; but out of which 100 bundles are to go to the share of prisoner No. 2. The witnesses to this document are prisoner No. 2 himself, and other three witnesses (Nos. 20, 21, and 22); but it does not appear from their evidence that they all witnessed to this document at one time, and in each other's presence, and their evidence does not satisfy the mind that the docu-

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ment is genuine, and was really granted by prosecutor. As the prisoners are merchants, (and from the Assistant Magistrate's record of proceedings in the Guzerattee language it appears their books of accounts have been returned to them,) the prisoners ought in their own defence to have exhibited those books, showing the transactions entered therein, as they describe them to have taken place; and this would have been more natural than to have produced an alleged receipt of payment by prosecutor, which he denies, for Government is almost the only party that grants receipts for payments rendered, merchants contenting themselves by simply booking such transactions in their accounts. This gives an air of improbability to the alleged receipt having ever been granted by prosecutor. Before prosecutor brought his charge against prisoners into the District Head Police Officer's Court, the prisoners endeavoured to get the dispute settled by a Punchayut; but this attempt at compromise ('samadan') failed. Had the receipt been then in existence, it ought to have been then produced; the non-production of so important a document savours of the idea that it is a spurious, falsely fabricated instrument. But to revert to the evidence for the prosecution. Prisoner No. 1 said that he had 849 bundles of tobacco in his warehouse after the Mamlutdar had removed 11 bundles, making a total of 860 bundles; but the Mamlutdar's Karkoon (Madhowrow Narayen) reported to the Mamlutdar having found a total of 960 bundles of tobacco in the warehouse of prisoner No. 1. But 960 bundles make 43 maunds' weight of tobacco, and prisoner's own witness No. 17 says good tobacco sells for Rs. 2 the maund, which would make the 43 maunds cost Rs. 86; if of inferior value, he says the price would be Rs. 1-8-0 the maund, which would make the 43 maunds come to Rs. 64-8-0. But in their defence the prisoners say they only bought 41 rupees' worth of tobacco from prose-

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cutor; this therefore furnishes conclusive proof that the prisoners' defence is a false one, and consequently the evidence establishing the prosecutor's charge remains undisturbed by what the prisoners have produced.

The Magistrate therefore confirms the conviction and sentence of the Third Assistant Magistrate on prisoner No. 2.

Reviewed by the Acting Session Judge.—After a careful perusal of the depositions recorded, and the proceedings held in the case, the Acting Session Judge is compelled to conclude, that the receipt which the prisoners produced, to prove their alleged purchase, is much better established than any point in evidence against them. The deposition of the complainant is contradicted by his own witnesses (two of them his relatives) Nos. 11, 12, 13, and 14, and yet he and deponent No. 4 are the only two witnesses on the prosecution who speak to the delivery of the tobacco to the prisoners at all, No. 5 being merely hearsay. The evidence, therefore, as to the quantity of tobacco made over to the prisoners, is exceedingly scanty, and must be received with caution. To rebut the charge, the prisoners recorded the receipt (No. 19), purporting to be an acknowledgment by complainant that he had sold to prisoner No. 1, for Rs. 41, 1,000 bundles of tobacco, of which 100 were for prisoner No. 2; and in support of this document, three apparently credible witnesses (Nos. 20, 21, and 22) are brought forward, who depose that it was written and attested at the complainant's request.

This is nearly all the evidence of any relevancy in the case. The depositions Nos. 6, 7, 8, and 9 have very little bearing on the case; and the witnesses to the Punchayut (Nos. 11, 12, 13, and 14) affect it little either for or against the prisoners. As before stated, they contradict the complainant (who is also found to have

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contradicted before the Assistant Magistrate his own deposition given before the District Police Officer, and several allegations in his petitions), and state that the Punchayut made no investigation into the matter of dispute between the parties.

The receipt which the prisoners produced is therefore, as above remarked, better proved than any other point in evidence. The Magistrate, when reviewing the case, previous to confirmation, has observed that "the non-production of so important a document before the Punchayut savours of the idea that it is a spurious, falsely fabricated instrument"; but the Punchayut does not appear to have entered on any such inquiry as would have permitted the production of this document before them, or if they did, the Assistant Magistrate did not ask them whether the document was produced. The Assistant Magistrate has also raised an objection respecting a supposed difference in the signatures made before him by two of the alleged witnesses to the receipt, and those borne on the document itself; but while it is difficult to understand why these deponents, if conspiring to defraud, should have caused their names to be written by any other person, the Acting Session Judge is led to believe, from a comparison of the signatures, that their identity cannot be doubted. It is worthy of remark, that the witnesses to the receipt do not depose as men who wish to make their evidence go as far as possible. They deny that they saw the prisoners pay the amount which the receipt acknowledges, and testify merely that the complainant recognised its authenticity, by directing it to be drawn out and attested.

The Magistrate has drawn an inference unfavourable to the prisoners from the amount of tobacco said to have been delivered to them. The Acting Session Judge, however, considers the other evidence against the prison-

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ers too scanty to justify recourse to an inference for their conviction, and the inference itself rests on very questionable testimony. If it were shown that a larger quantity of tobacco was delivered than that to which the receipt relates, it may be questioned whether prisoner No. 1, who has been discharged, would not be responsible, rather then the present petitioner. The former admits the receipt of the tobacco, denying, however, that he received as much as the complainant states; and he plays the chief part in the receipt, which, also, he acknowledges. The evidence, however, to the quantity made over to either, or both of the prisoners, is defective, as one set of witnesses speak of it as so many maunds, and another as so many bundles, and the case does not furnish the means of comparing the two measures. The deponents Nos. 17 and 18, who are, perhaps, the best evidence on the point, depose that they were paid their cart-hire by the prisoner No. 1, and thus tend to show that the tobacco was purchased by that prisoner, as alleged.

The Acting Session Judge is of opinion, for the above reasons, that the conviction of the prisoner No. 2 (the present petitioner) should be annulled, and the fine which he has paid restored; and this opinion is communicated to the Magistrate of Kaira.

Letter from the Magistrate to the Acting Session Judge.—With reference to your Precept of the 28th ultimo, forwarding extract from your proceedings in the case of Dwarkadas Hureebhaee, I have the honour to inform you, that as the conviction and sentence passed upon the abovenamed person by the Third Assistant Magistrate was confirmed by the late Magistrate of Kaira, Mr. Elphinston, and as it appears from that Officer's Finding, and extract from your proceedings, that your opinions regarding the guilt of this person are directly opposite, I beg to suggest that the case be transmitted for the decision of the Judges of the Sudder

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Foujdaree Adawlut, in accordance with the latter part of Clause 3rd, Section III. Regulation VIII. of 1831.

The proceedings in the case are herewith transmitted.

Letter from the Acting Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward, for submission to the Judges of the Sudder Foujdaree Adawlut, in accordance with Regulation VIII. of 1831, Section III. Clause 3rd, the records of the Magistrate of Kaira, and copies of correspondence between that Officer and myself, in the case of one Dwarkadas Hureebhaee.

For future guidance, I request that you will obtain and favour me with the opinion of the Judges, whether cases, in which sentences passed by an Assistant Magistrate have been confirmed by a Magistrate, should be forwarded first to the Magistrate, or directly to the Sudder Foujdaree Adawlut. The question appears to turn upon the point whether the reversal of a sentence confirmed by himself is "an amendment of such a nature as a Magistrate is not authorised to perform." It appears to me that it is; *i. e.* that a Magistrate is not empowered to annul his own decisions, unless the opinion expressed by the Sessions Court in favour of the reversal should be supposed to confer on him such authority, which I doubt; and if the Judges take this view of the question, such cases evidently ought to be laid at once by the Sessions Court before the Sudder Foujdaree Adawlut, without loss of time through a necessarily fruitless reference to the Magistrate.

Minute recorded by Mr. A. Remington.—I concur with the Acting Session Judge, that the evidence was insufficient to establish the charge against the prisoner.

The tobacco was deposited in the house of Shamdas, and the key of the warehouse was retained by complainant, who failed to show how and in what manner

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Dwarkadas continued responsible for the safe custody of the article.

The conviction must be annulled.

[The rest of Mr. Remington's Minute is omitted, as it forms the Resolution of the Court.]

Minute recorded by Mr. W. H. Harrison.—I concur with the Session Judge's view, and would annul the conviction of Dwarkadas.

[The rest of Mr. Harrison's Minute is embodied in the Resolution.]

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled; and the fine, if paid, is to be returned.*

In respect to the procedure to be followed by the Sessions Court when reviewing a conviction in the Magisterial Department, the Session Judge is to be referred to the case of Hureewulub, and others, at pages 599—604 Vol. II. Morris' Reports, and is further to be informed, that a reference to the Magistrate, though frequently made, is not absolutely required.

* *Return from the Magistrate to this Precept.*—In returning this Precept duly executed, the Magistrate has the honour to report, that after the conviction and sentence against Dwarkadas Hureebhaee had been confirmed by the Magistrate, he paid of the fine imposed upon him Rs. 197-4-2, out of which, in accordance with the sentence, Rs. 100 was paid to the complainant, Bhugwan Koober. This person is now reported by the District Police Officer to have died last month, so that the Magistrate is unable to recover the portion of the fine paid to him. The other portion, Rs. 97-4-2, was paid to above Dwarkadas Hureebhaee on the 30th ultimo.

The delay in replying to the above Precept was caused by inquiries being made for Bhugwan Koober, the person to whom a portion of the fine was granted.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be reminded, that if the precaution enjoined by Circular Order No. 440 had been observed, when the portion of the fine was paid to complainant, there would not have been any difficulty in carrying out the Court's

The Assistant Magistrate is to be requested to designate prisoners by their names, and not by their numbers only.

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order. But the petitioner's delay in appealing shuts him out from the Court's further interference.

[A similar decision was given in the case printed at pp. 552 to 557 of Vol. II. of these Reports for 1854, as follows :—

Return of the Magistrate of Ahmedabad to the Courts Precept of the 25th October 1854.—It is hereby certified to the Court of Sudder Foujdaree Adawlut, that the petitioner was fined in the sum of Rs. 85-15-0. Of this Rs. 8-9-6 was divided among the cultivators, in proportion to what was received by the petitioner in excess on account of the books sold to them, and the sum of Rs. 21-7-9 paid to the informer, agreeably to the provisions of Clause 2nd, Section XVI. Regulation XVII. of 1827; the balance of Rs. 55-13-9, which was credited to the Government account, was directed to be restored to the petitioner, who, it is reported, declines receiving it.

Minute recorded by Mr. A. Remington.—The petitioner having submitted to his sentence for the period of six months without appealing against it, the Court cannot aid him any further in the matter; but the Magistrate may be reminded, that as all sentences are subject to revision, it is expedient, as a general rule, to wait the full period before disposing of fines to parties who may be shown by the final decision to have no claim to compensation.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be reminded, that if the precaution enjoined by Circular Order No. 440 had been observed when the portion of the fine was paid to the informer, there would not have been any difficulty in carrying out the Court's order. But the petitioner's delay in appealing shuts him out from the Court's further interference.]

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 7 of the Calendar of the Poona Sessions Court for 1855. Committed by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 27th December 1854. Tried by Mr. P. W. LEGEYT, Session Judge, on the 6th February 1855, assisted by Assessors. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Attempt to Commit Murder.

Prisoner.—Begum kom Ranoo, Mussulman, aged 15.

Charge.—Attempt to commit murder (Regulation XIV. of 1827, Section XXVI. Clause 1st, and Section I. Clause 2nd); in having, under date the 22nd December 1854, (Poush Shood 3rd, Shuké 1776,) in the city of Poona, mixed up a quantity of sulphate of copper with boiled rice, and given it to the complainant, Shaik Boodun wulud Shaik Makajee, her father-in-law, to eat, with the intention of depriving him of life.

The prisoner pleads not guilty.

Finding and Sentence by the Session Judge.—The prisoner in this case, who is the daughter-in-law of the prosecutor, admitted before the Police Authorities that she had mixed some sulphate of copper in the food she had prepared for Shaik Boodun, and placed it before him, with the intent thereby to deprive him of life. She assigns his ill-usage of her as a reason for her act. She has retracted this admission. It has, however, been duly proved by the witnesses No. 3 and No. 4 (Morajee Patel, and Martund Kessow), that she dictated the statement No. 5 in their hearing, and fully admitted its contents when read over to her, and that no persuasion or threats were used to induce her to make it. It is necessary, then, to examine to what extent this admission of the prisoner, which appears to have been legally obtained, has been confirmed by other evidence.

Shaik Boodun (witness No. 1) states he perceived a bitter taste in the rice, and found it discoloured, and con-

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sequently did not eat any of it. The discoloration is confirmed by Dhondee (witness No. 2), the Policeman ; and witness No. 1 states, that subsequently the small pieces of bluestone exhibited in Court were found close to the grinding-stone in his house. The prisoner also admits these pieces to have been part of the bluestone used by her.

There is, therefore, in the opinion of the Court, a full corroboration of the prisoner's retracted statement, that she mixed bluestone with the rice, and gave it to the prosecutor to eat.

Her defence is a mere denial,—a weak one,—and amounts to nothing.

The point to be considered is, whether the act of the prisoner was, in law, an attempt at murder.

The Civil Surgeon has deposed that the quantity of sulphate of copper exhibited in the food produced could not have caused the death of a man.

He states, at the same time, that it would, if it had been eaten, have caused a degree of bodily suffering.*

The Court is therefore of opinion, that no attempt at murder has in this case been proved, because the means used were not such as could have caused the death of Shaik Boodun; but under the Interpretation on Section XXVII. Regulation XIII. of 1827, dated the 15th January 1829, it finds the prisoner guilty of an attempt

* *Deposition of the Civil Surgeon.*—I was Civil Surgeon of Poona on the 23rd of December last. Some rice was brought before me for examination that day. The rice now shown me appears to be the same, but is of a darker colour, which may be from age. When I first saw the rice, my impression was that it had been allowed to stand in a copper vessel for a length of time, or cooked in an untinned vessel. The rice had sulphate of copper mixed in it, but in a small quantity. The quantity I saw would not have caused death, but instant vomiting, and no serious injury would have resulted from it.

* * * * * * * *

If any one had eaten the quantity of the rice now shown me, it would have produced bodily suffering.

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to commit an act which would have caused a degree of bodily suffering, as described in Section XXIX. Regulation XIV. of 1827. (The Assessors express their entire concurrence in the above view of the case.)

In determining the measure of punishment to be awarded to the prisoner, the Court cannot but remember that the prisoner escaped conviction for the more serious crime through sheer ignorance, and that her intention to destroy the prosecutor is manifest.

The sentence of the Court is that you, Begum kom Ranoo, be imprisoned, with labour befitting your sex, for a period of three (3) years.

Minute recorded by Mr. M. Larken.—The prisoner is convicted of "an attempt to commit an act which would have caused a degree of bodily suffering, as described in Section XXIX. Regulation XIV. of 1827." It is shown that the prisoner gave Shaik Boodun (witness No. 1) some sulphate of copper mixed with his food; of which he ate a mouthful, and became giddy. The Civil Surgeon deposes, that if Shaik Boodun had eaten the whole quantity in the dish, he would have vomited, but no serious injury would have resulted. The vomiting, then, is the amount of bodily suffering which would have followed the attempt. From her admissions before the Police, retracted in the Sessions Court, the Session Judge found that the prisoner's intention to destroy the prosecutor (Shaik Boodun) was manifest, and sentenced her to three years' imprisonment.

There are three Clauses to Section XXIX. of Regulation XIV., under which the prisoner has been convicted; but the conviction really lies under Clause 3rd, which says that such an offence as the one under review "shall be punishable, according to the consequences produced, in the same way, and to the same extent, as an assault." The prisoner has been convicted of an attempt to commit this act. To a certain extent, the attempt was carried

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out, and "the consequences produced" were giddiness. Had the attempt been fully carried out, "the consequences" would have been vomiting. The attempt, then, was an attempt at a trivial assault, punishable, by Clause 2nd of the Section quoted, with ordinary imprisonment not exceeding six months, and within this limitation the present sentence must be mitigated.

Minute recorded by Mr. W. H. Harrison.—In this case, the prisoner has been convicted of an attempt to cause bodily suffering, by administering sulphate of copper to her father-in-law, on her own confession, which is repudiated before the Sessions Court. The Judge found that her admission of guilt was corroborated, 1*st*, by the evidence of the complainant; 2*nd*, by that of the Policeman (witness No. 2); and 3*rd*, by her admission that certain pieces of sulphate of copper, said to have been found in the house, were part of the supply she obtained to effect her purpose.

The complainant's statement is that he found his rice bitter, and immediately concluded that the prisoner had poisoned him; and that the pieces of sulphate of copper produced in Court were found at the time near the grindstone by a Police Havildar, who, however, is not called to corroborate this. The witness went much further before the Deputy Magistrate, and swore that the poison was pulverized in his presence, while his dinner was serving. Witness No. 2, the Policeman, also before the Magistrate deposed that the pieces of sulphate of copper were produced the next day by the complainant himself. This witness, in the Sessions Court, deposes to no fact corroborative of the confession; his statement was for the most part hearsay.

The third corroboration is taken from the confession itself. The Civil Surgeon states that as much sulphate of copper might have been present had the rice been kept in an untinned vessel. No inquiry seems to have been

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made as to the vessel, and whether, as alleged, the complainant's rice was prepared separately from that of the rest of the family. There is evident bad blood between the parties. I do not find any independent corroboration of the alleged confession retracted in the Sessions Court, and would acquit and discharge the prisoner.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

Minute recorded by Mr. A. Remington.—The legal offence substantiated against the prisoner is that provided for by Clause 3rd, Section XXIX. Regulation XIV. of 1827, and the punishment must therefore be restricted to the limit therein assigned.

It is with the greatest reluctance that I arrive at this conclusion, as I feel satisfied that the substance was used with the intention of destroying life, as found by the Session Judge.

Final Resolution of the Sudder Foujdaree Adawlut.—The punishment in this case must be regulated by the consequences which might have followed the attempt; and as the prisoner has been in confinement nearly four months, the Court consider that she must be discharged.

The Magistrate is to be requested to report why the case, which was committed for trial on the 29th December 1854, was not sent to the Sessions Court till the 2nd February following.*

* *Return from the Magistrate to the Precept of the Sudder Foujdaree Adawlut.*—In reply to the question contained in an extract from the proceedings of the Sudder Court, under date the 11th instant, which accompanied this Precept, the Magistrate begs to report that Mr. Nana Morojee, the Deputy Magistrate, ascribes the delay to his being "fully occupied with other Magisterial cases, and emergent work pertaining to the Sudder Station."

The Magistrate cannot accept this as a satisfactory excuse for neglecting so very palpable a duty as that of handing up without delay prisoners destined for trial before the Sessions Court; he has accordingly addressed a letter this day to Mr. Nana Morojee, which he trusts will

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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[Petition of Huree Dinkur to the Sudder Foujdaree Adawlut, praying that the Session Judge, Mr. P. W. LEGEYT, of Poona, may be ordered to allow him to see his brother in the Jail, and to forward the latter's petition to the Court, the Session Judge having rejected an application to that effect. Referred to the Session Judge for report, on the 28th March 1855.]

Visiting a Convict in Jail.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to report with respect to the refusal to allow petitioner to see the prisoner, and to forward the latter's petition to the Court.

Report of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—Agreeably to the instructions contained in the extract which accompanied this Precept, the Session Judge begs to state, that on the 9th ultimo the petitioner, Huree Dinkur, applied to the Assistant Session Judge in charge to be allowed to visit Gunesh Dinkur, his brother, a prisoner in the Jail, with the intention of telling him that he had made a petition regarding his (prisoner's) case to the Sudder Foujdaree Adawlut, which Court ordered that any such petition should be sent through the Session Judge, and also to speak to him on some private business. As the prisoner

have the effect of putting an end to the system of procrastination which has hitherto characterized his Deputy's proceedings, in spite of repeated prohibitory admonitions.

The delay that has occurred in answering this Precept is owing to references between this Office and that of the Deputy Magistrate.

Resolution of the Sudder Foujdaree Adawlut.—The Deputy Magistrate is to be informed, through the Magistrate, that the Court highly disapprove of his conduct in delaying to commit the prisoner, and of his want of despatch generally in disposing of the cases before him; and that the Judges trust that the instructions he has already received from Mr. Jones in this respect will be attended to.

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had already personally made a petition to the Sudder Foujdaree Adawlut regarding his case, (of which petitioner was of course aware), and which was rejected by that Court, and as petitioner Huree did not mention what his private conversation was to be about, the Assistant Session Judge in Charge was not satisfied, and rejected it.

The copy of the petition made by the petitioner is herewith forwarded.

With the exception of this, the prisoner Gunesh made no other petition, as his brother alleges in the petition under report.

The petition is returned.

Resolution of the Sudder Foujdaree Adawlut.—Petitioner is referred to the Session Judge.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

DHARWAR.

[Case No. 14 of the Criminal Return of the Magistrate of Dharwar for November 1854. Tried by Mr. J. R. ARTHUR, Acting Second Assistant Magistrate, on the 4th November 1854. Reviewed by Mr. M. J. M. STEWART, Acting First Assistant Magistrate, on the 24th November 1854, and by Mr. A. W. JONES, Session Judge, on the 29th November 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Attempt at Conspiracy.

Prisoner.—Santuma bin Sidapa, Lingayeet, aged 25.

Charge.—Under Regulation XVII. of 1828, and Regulation XIV. of 1827, Section I. Clause 2nd, with attempting to conspire to pervert the course of public justice, in the instance of his offering a bribe of Rs. 2 to Narun Rao Venktesh, Acting Police Officer of the Kaganilee Mahal, on the 25th October last, to induce that Officer to release him from custody, when under charge of a criminal offence.

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The prisoner pleads not guilty.

Finding and Sentence by the Acting Second Assistant Magistrate.—The prisoner Santuma confessed before the Police Officer that he of his own accord offered the bribe of Rs. 2, as he hoped that would induce to his speedy liberation, and that he did so through ignorance. This statement he now confirms, stating that he at first through ignorance pleaded not guilty. The statement he made before the District Police Office he made voluntarily.

The prisoner confesses his guilt, and there seems no reason to suppose that his confession is opposed to the truth, or was extorted from him. It is supported by the evidence of Ganoo and others. The offence is one which cannot be permitted to go unpunished, while the fact of his having committed it in so open a manner is sufficient of itself to betray the extreme ignorance of the culprit.

Prisoner is found guilty, and sentenced to pay a fine of ten (10) rupees, or undergo (20) days' imprisonment, with hard labour.

Reviewed by the Acting First Assistant Magistrate.—The Acting First Assistant Magistrate in charge reviews these proceedings, which have been called for by the Precept of the Session Judge of Dharwar, dated 18th November 1854.

He finds that prisoner did attempt to conspire, and was properly convicted.

With reference to the Circular Order of the Sudder Foujdaree Adawlut, dated 16th March 1848, No. 373, he finds that cases of conspiracy are to be committed to the Sessions, because conviction should be followed by a heavier punishment than Magistrates can inflict; but the present case is one, not of conspiracy, but attempt to conspire, and he considers the punishment sufficient,

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and sees no reason to interfere with the conviction and sentence of the Acting Second Assistant Magistrate.

Reviewed by the Session Judge.—Having read the proceedings certified by the Acting First Assistant Magistrate in charge of Dharwar, in return to Precept No. 1979 of 1854, in the case of the prisoner Santuma bin Sidapa, the Session Judge sees no reason to interfere with either the conviction or sentence.

Extract Paragraph 2 of a Letter from the Registrar of the Sudder Foujdaree Adawlut to the Magistrate.—The Judges also request you will have the goodness to report why Case No. 14 was not committed for trial, as ordered in Circular Order No. 373, and to certify copy of Mr. Arthur's Finding, and that of your First Assistant, confirming the decision, and the Minute of the Session Judge, rejecting the appeal.

Reply from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—With reference to the 2nd paragraph of your letter dated the 7th ultimo, No. 284, I have the honour to certify copies of the proceedings called for relative to Case No. 14 in my Criminal Calendar for November last, and to observe, that the reason why the case was not committed for trial to the Session Judge appears to have been that the crime committed was not conspiracy, but attempt at conspiracy, and of a nature that did not seem to require heavier punishment than the Magisterial Authorities are empowered to award.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—You are hereby requested to certify the papers and proceedings of the Magistrate, and your own, in the case of Santuma bin Sidapa, No. 14 of the Criminal Return of the Magistrate of Dharwar for November last, returning this Precept duly executed, or good and sufficient reason why it has not been executed, with a report of

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what you may have done in pursuance hereof, within ten days after its receipt.

Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—In return to the within Precept, it is hereby certified to the Sudder Foujdaree Adawlut, that as requested in a letter (No. 361, dated 26th ultimo) from the Magistrate of Dharwar, the Session Judge has forwarded to him an extract from his proceedings in the case of the within-named prisoner, for transmission to the Sudder Foujdaree Adawlut, who, he stated, had called for the whole case. The Session Judge therefore believes that the proceedings in this case would have by this time reached the Judges.

Minute recorded by Mr. A. Remington.—[The 1st paragraph of Mr. Remington's Minute is omitted, as it forms the 2nd paragraph of the Court's Resolution.]

The conviction must be annulled, and the fine, if paid, remitted.

Minute recorded by Mr. W. H. Harrison.—The prisoner in this case has been convicted of attempt to conspire to pervert the course of public justice, in having offered a bribe of Rs. 2 to a public officer. [The rest of this paragraph forms the 1st paragraph of the Court's Resolution.]

Neither was the prisoner liable to punishment for trying to bribe a public officer, for the offer of a bribe is not penal, as declared so long ago as the 9th May 1829, in the Court's Circular Order No. 25, of that date.

The sentence should be annulled.

Resolution of the Sudder Foujdaree Adawlut.—The crime of "conspiracy" cannot be committed by a single individual, and there can be no such thing as an attempt to commit it, for the attempt would constitute the crime itself.

Neither was the prisoner liable to punishment for try-

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ing to bribe a public officer, and the several Authorities who have taken part in these proceedings appear to have overlooked Circular Order No. 25, directing that the offer of a bribe to any public officer is not to be dealt with as an offence. Had there really, then, been a conspiracy to bribe, it would not be competent to hold the agreement an offence, when the accomplishment of the act was not so. But the main objection to the conviction is, that there was no conspiracy at all, that offence implying a combination by two or more to effect an illegal object, whereas the indictment charged the prisoner, and him only.

The conviction and sentence are annulled, and the fine, if paid, is to be returned.*

* *Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.*—In return to the within Precept, it is hereby certified to the Sudder Foujdaree Adawlut, that the extract from the Court's proceedings which accompanied it has been duly received, but that the prisoner Santuma, having undergone imprisonment in lieu of paying the fine awarded, the order of the Court in respect to remission of the fine cannot be carried out.

* * * * * * * *

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In return to the within Precept, it is hereby certified to Judges of the Sudder Foujdaree Adawlut, that the within-named prisoner, Santuma bin Sidapa, not having paid the fine to which he was sentenced, underwent twenty days' imprisonment, with hard labour, in default.

The purport of the extract of the Court's proceedings has been communicated to the said prisoner.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges. 1855 May 9.

DHARWAR.

[Case No. 16 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. J. R. ARTHUR, Acting Second Assistant Magistrate, on the 7th February 1855. Tried by Mr. A. W. JONES, Session Judge, on the 3rd, 5th, and 7th April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Jumal Saheb wulud Syud Hoosein, Mussulman, aged 32. Murder.

Charge.—Murder (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st); in having, on the evening of Thursday, the 25th January 1855, (corresponding with Magh Shood 8th, Shuké 1776,) in the village of Nitoor, in the Raneebednoor Talooka of the Dharwar Division and Zillah, struck one Syud Fareed, of the same village, on the temple with a shoe, thereby causing the death of the said Syud Fareed.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and pleads not guilty.

It appears that on the evening of the 25th January last, the prisoner had returned from his field with his brother (the deceased Fareed), and that they had a dispute on the way home, on account of the deceased having given his daughter some of the chillies gathered in the field, without having given any to the prisoner's wife; and that after some mutual abuse, the prisoner took off his sandal, and struck his brother with it on the head, in consequence of which he died within a very short time.

That the death was thus occasioned is proved by the evidence of all the witnesses in the case, and by the Inquest Report, which shows that the deceased died of a blow on the temple.

And the prisoner admits before the Court the state-

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ment he had made before the other Authorities, in which he acknowledges that the occurrence happened as above described; so that there is no doubt that the deceased died from the effects of a blow which he received from the prisoner.

It appeared to the Assistant Magistrate, however, that there was nothing to show that it was the prisoner's intention to kill his brother, and that the blow was struck in a manner that clearly showed his object was to offer an indignity rather than to do him bodily harm, much less slay him, and that it was evident the prisoner was full of remorse, and that no punishment that could be inflicted would be productive of more suffering than that his own feelings of grief would produce; and he therefore committed the prisoner for trial for culpable homicide. But on looking at the proceedings of the case, the Session Judge found that every witness examined spoke of the constant disputes between these brothers, and therefore returned the case, that the prisoner might be committed for murder. This was done, and the prisoner has now been tried; and the question is, whether the prisoner should be convicted of culpable homicide or of murder.

It is shown by all the witnesses in the case, consisting of the neighbours of these two men, that the disputes between them are notorious in the village; it is therefore impossible to consider the act of violence by which the one deprived the other of his life as so entirely free from malice as to divest the act of so much criminality as would constitute murder; and it appears, also, that the shoe with which the blow was given is more than an inch thick in the sole, and upwards of $1\frac{3}{4}$ lb. weight, so that it is not by any means such a harmless weapon as would support the Assistant Magistrate's opinion that the blow struck with it was intended rather as an indignity than to injure the deceased. Then, with regard to

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the prisoner's feelings, as far as can be judged by his demeanour before the Court, it may be allowed that they are such as they are described to be by the Assistant Magistrate ; but independently that this must in such cases always be a most fallacious test, it must be remembered, that punishments of crimes such as that with which he is charged are intended not only to affect the prisoner himself, but for example, and to deter others from doing the like.

Under these circumstances, the Session Judge considers that the prisoner must be convicted of murder ; in having, on the evening of Thursday, the 25th January 1855, (corresponding with Magh Shood 8th, Shuké 1776,) in the village of Nitoor, in the Raneebednoor Talooka of the Dharwar Division and Zillah, struck one Syud Fareed, of the same village, on the temple with a shoe, thereby causing the death of the said Syud Fareed.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed :—

That you, Jumal, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. A. Remington.—The Session Judge appears to have considered, that from the previous quarrel between prisoner and deceased, the former took the opportunity, from evil disposition towards his brother, of striking the blow which deprived him of life, as contradistinguished from his being impelled thereto by the excitement of passion, by means of the provocation given him.

In that case, the prisoner would undoubtedly have been guilty of murder ; but I see no reason to suppose the assault was not occasioned by the abuse that passed between them, and taking the view expressed by the

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Assistant Magistrate, I would convict the prisoner of culpable homicide.

Minute recorded by Mr. W. H. Harrison.—The evidence recorded in this case, with the prisoner's own admission, shows, that in a quarrel with his brother, the deceased Fareed, the prisoner struck him with his shoe on the temple, and thereby caused his death within a brief space. There is testimony to frequent quarrels between the brothers, but it is denied that assaults had occurred; and the nature of the instrument used for the fatal blow does not lead to the conclusion that serious injury was intended. It is stated that the prisoner was himself startled by the effect, and that he assisted deceased to his home, where he soon after expired.

In my opinion, the circumstances are sufficiently extenuating to divest the act of the guilt of murder; and I would convict the prisoner of culpable homicide, and sentence him to a term of imprisonment.

As to the return of this case for the prisoner's committal on a charge of murder, it seems to me that it was a proper subject of inquiry for a Sessions Court, whether the act amounted to murder or a less offence—the point was not one to be decided by the Magistrate.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner is convicted of culpable homicide, and sentenced to two years' imprisonment, with hard labour.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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NASSICK.

[Case No. 78 of the General Calendar of the Ahmednuggur Sessions Court for 1854. Committed by Dr. S. M. PELLY, Assistant Magistrate of Nassick, on the 18th November 1854. Tried by Mr. J. W. WOODCOCK, Session Judge, on the 13th and 14th February 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Attempt to Commit Rape.

Prisoner.—Bala wulud Nagojee, Koonbee, aged 30.

Charge.—Attempt to commit rape (under the provisions of Regulation XIV. A. D. 1827, Section XXIX. Clause 1st, and Section I. Clause 2nd); in having, on the 27th October 1854, (corresponding with Mitee Kartik Shood 6th, Shuké 1776,) in a mango grove outside the town of Nassick, Talooka Nassick, Zillah Ahmednuggur, attempted to commit rape upon the person of the wife of Mulharee wulud Kondajee, named Chimnee, about sixteen years of age, by having forcibly and against her consent thrown her down, and sat upon her chest, with the intention of having sexual intercourse with her.

The above charge is read over and explained to the prisoner, and he, being asked whether he pleads guilty or not guilty to the charge, pleads not guilty.

Finding and Sentence by the Session Judge.—I consider that the crime has been clearly brought home to the prisoner by the evidence of the woman Chimnee, her husband Mulharee (witness No. 3), Shukaram (witness No. 5), Thuma (witness No. 6), Yesoo (witness No. 7), and Sheoram (witness No. 8). It appears that prisoner had frequently solicited Chimnee to yield to his embraces, which she virtuously refused to do, and told her husband that she had been followed and persecuted by prisoner; but he did not think it worth his while to look out for prisoner; and therefore he nearly succeeded in having his wicked will upon Chimnee. The prisoner is accordingly

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found guilty, under the provisions of Regulation XIV. Section XXIX. Clause 1st, and Section I. Clause 2nd, A. D. 1827, of an attempt to commit rape; in having, on the 27th October 1854, (corresponding with Mitee Kartik Shood 6th, Shuké 1776,) in a mango grove outside the town of Nassick, Talooka Nassick, Zillah Ahmednuggur, attempted to commit rape upon the person of the wife of Mulharee wulud Kondajee, named Chimnee, about sixteen years of age, by having forcibly and against her consent thrown her down, and sat upon her chest, with the intention of having sexual intercourse with her.

And the Court passes the following sentence, under the provisions of Regulation XIV. A. D. 1827, Section XXIX. Clause 1st:—

That you, Bala wulud Nagojee, Koonbee, be imprisoned in a criminal jail, and kept to hard labour, for the term of two (2) years, and at the expiration of your imprisonment, you pay a fine of fifty (50) rupees to Government, and in default of payment, that you be imprisoned for a further period of six (6) months, with hard labour; and also that you receive forty (40) lashes on your bare back, within three (3) months from the date of your imprisonment, twenty (20) lashes at each infliction.

Minute recorded by Mr. A. Remington.—In respect to the charge of rape, Dr. Pelly, the committing Officer, considered it highly improbable that the prosecutrix could have been ravished against her will, and there was no independent evidence of the fact on which he could rely to commit the prisoner for the graver offence.

It may have been that the prisoner touched the woman against her will, and, in law, have thereby committed an assault; but as the evidence was described by the Assistant Magistrate as worthless throughout, and the witnesses were not called for the defence, the record does

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not satisfy me of the prisoner's guilt, and I would acquit him.

Minute recorded by Mr. W. H. Harrison.—On consideration of the evidence recorded in this case, I come to the conclusion that an attempt at rape is not established. If the woman Chimnee is to be believed, she was actually violated; but on comparing the depositions of her husband, and of the other parties, who are said to have been summoned to the spot by her cries for assistance, and also observing those they gave before the Assistant Magistrate, I find discrepancies in regard to the relative position of the parties and the witnesses, and to other particulars of much importance in weighing the evidence in support of such a charge, so easily made, and so hard to rebut.

I find nothing in the circumstances, that may be relied upon, inconsistent with the woman's consent to the prisoner's intercourse with her—no signs of a struggle, and no injury to her person; yet such could scarcely have been wanting, had he been really surprised in the act of forcing her against her will. I would acquit the prisoner.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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TANNA.

Allowing a Convict to Petition the Sudder Foujdaree Adawlut.

Substance of a Petition from Wuleebhaee Uleebhaee to the Sudder Foujdaree Adawlut.—I beg to state that the Session Judge of Ahmedabad passed sentence of transportation against my son Ahmed, aged about sixteen years, and no petition has been made to your Court to annul the sentence. He is falsely accused. A short petition was presented to the Session Judge, and a 'vukalutnama' sent to Vukeel Muthooradas; but the

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Session Judge would not forward it to your Court. The Regulation does not state that a convict's petition should be sent only through the Session Judge. I beg that the proceedings in my son's case may be given to the Vukeel, that he may make himself acquainted with them. I petitioned the Session Judge of Tanna to allow me to see my son, and permit him to make a petition to your Court; but he answered that he could not do so without the order of the Sudder Foujdaree Adawlut, neither could he get the vukalutnama signed. It is right that your Court should hear the petition from my son. By refusing to hear his case, no justice will be done. My son is now in the Criminal Jail at Tanna, and the Session Judge should be directed to allow him to petition, and to sign a vukalutnama in the name of another Vukeel.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to report on the allegation in the petition that he refuses to allow the convict to petition the Sudder Foujdaree Adawlut.

Report from the Assistant Session Judge to the Sudder Foujdaree Adawlut.—The Assistant Session Judge in charge begs to report that the petitioner applied to him for his son to be allowed to petition the Sudder Foujdaree Adawlut, and was informed that as the sentence of transportation awarded his son was passed by the Sudder Court, no further petition could be made to that Authority through this Department. In the letter, also, received from Ahmedabad with the convict, it was stated that the convict had not petitioned the Government, implying that the Sudder Court had been already appealed to. The petitioner's application was therefore rejected.

The original petition of Wuleebhaee Uleebhaee is herewith returned.

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Court do not see any reason why the convict should not be allowed to petition the Court, and the Assistant Session Judge is to be requested to permit him to do so, as, from the return to the Court's Precept, it does not appear certain that he has ever done so.

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Allowing &c.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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KHANDEISH.

Forfeiture of Security Bond.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I do myself the honour to forward, for the consideration of the Judges of the Sudder Foujdaree Adawlut, the papers and proceedings in the case of one Fukeera wulud Baboorow, Revenue Patel of Moujé Zuvkheira, Talooka Thalnair, of this Zillah, who was tried before Rao Bahadoor Shreeput Vitul, District Deputy Magistrate, for forfeiture of his security bond, binding himself thereby under penalty of a fine of Rs. 50, commutable to one year's imprisonment, to produce one Lukha wulud Bharmul, Bheel, before the Police and Magisterial Authorities, and the Sessions Court, until the charge against the said Lukha, of escape from custody before sentence, should have been decided.

The Deputy Magistrate passed a sentence, to the full extent of the penalty entered in the security bond, and the sentence was confirmed by me.

Fukeera paid the fine imposed upon him; and subsequently, by his own exertions, recaptured Lukha, and made him over to the Police Amuldar.

He has now petitioned me for the remission of the fine, and as I am precluded from complying with his petition, having myself confirmed the sentence passed against him, I submit his case for the favourable consideration and orders of the Judges.

Resolution of the Sudder Foujdaree Adawlut.—On the recommendation of the Magistrate, the fine is remitted, and the money is to be returned to the surety, Fukeera.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Cases Nos. 65 and 73, 66 and 72, and 67 of the Calendar of the Ahmednuggur Sessions Court for 1854. Committed by Mr. A. R. GRANT, First Assistant Magistrate, on the 29th and 30th September, 30th October, and 2nd November 1854. Tried, Cases Nos. 65 and 73 by Mr. J. W. WOODCOCK, Session Judge, on the 19th December 1854, and 18th, 19th, 20th, 23rd, 24th, 26th, 27th, 29th, and 31st January 1855; Cases Nos. 66 and 72 on the 6th November 1854, and 9th February 1855; and Case No. 67 on the 3rd, 5th, and 9th February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Gang Robbery by Night, with Force; Receiving Property, knowing, or having evident grounds for suspecting it to have been Stolen; Concealment before the fact of the aforesaid Gang Robbery; and Conspiracy.

Prisoners in Cases Nos. 65 and 73.

(*In Case No.* 65).—No. 1, Babria wulud Huree, Koonbee, aged 25.
2, Muthia wulud Chima, Koonbee, aged 25.
3, Koosa wulud Nagojee, Koonbee, aged 50.
4, Tatia wulud Nana, Ramosee, aged 30.
5, Luximon wulud Vitoo, Chambhar, aged 35.
6, Narain wulud Rukhma, Ramosee, aged 26.
7, Kasee wulud Munajee, Sonar, aged 25.
8, Geerma wulud Balajee, Koonbee, aged 40.

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(*In Case No.* 65).—No. 9, Arjoona wulud Vitoo, Chambhar, aged 35.
10, Huree wulud Rukhma, Ramosee, aged 25.
11, Naroo wulud Koosa, Koonbee, aged 20.
12, Nana wulud Tatia, Ramosee, aged 18.
13, Govinda wulud Rukhma, Ramosee, aged 25.

(*In Case No.* 73).—No. 14, Apajee Gungadhur, Brahmin, aged 22.

Prisoners in Cases Nos. 66 *and* 72.

(*In Case No.* 66).—No. 1, Govinda wulud Rukhma, Ramosee, aged 25.
2, Luximon wulud Gorajee, Ramosee, aged 32.
3, Nimba wulud Rokroo, Ramosee, aged 30.
4, Babajee wulud Malojee, Ramosee, aged 25.

(*In Case No.* 72).—No. 5, Bhyrao wulud Rokroo, Ramosee, aged 27.

Prisoners in Case No. 67.—No. 1, Govinda wulud Rukhmajee, Ramosee, aged 25.
2, Luximon wulud Ghorajee, Ramosee, aged 32.
3, Nimba wulud Rokroo, Ramosee, aged 30.

Charge in Cases Nos. 65 *and* 73.—Against prisoners Nos. 1 to 13, gang robbery by night, with force (under the provisions of Regulation XIV. A. D. 1827, Section XXXVI. Clauses 1st and 3rd); in having, at the village of Kanhoor, in the Kurda Talooka of the Ahmednuggur

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Zillah, on the night of the 30th May 1854, (corresponding with the 3rd Jésht Shood, Shuké 1776,) climbed up to the roof of the house of one Nemichund wulud Tarachund, Marwaree, and entered therein, some of them armed with sticks and other weapons, beaten the said Nemichund with sticks, stones, and other small weapons, and carried off his gold and silver ornaments, cloth, articles of wearing apparel, copper and brass utensils, cash, and other miscellaneous articles, of the aggregate value of Rs. 1,365-1-2.

Prisoners Nos. 4 and 11 (Tatia wulud Nana and Naroo wulud Koosa) are further charged, under Regulation XIV. A. D. 1827, Section XLI. Clause 1st, with receiving property, knowing, or having evident grounds for suspecting it to have been stolen; prisoner No. 4 (Tatia) in having, at or near Poonéwaree, a hamlet of Parneir, in the Kurda Talooka of the Ahmednuggur Zillah, between the 30th May 1854 (corresponding with the 3rd Jésht Shood, Shuké 1776) and the 1st September 1854, (corresponding with the 9th Bhadrupud Shood, Shuké 1776,) received from one Govinda wulud Rukhma, Ramosee, or from some other person or persons unknown, twenty-five gold and silver ornaments, of the value of Rs. 245-5-0, knowing, or having evident grounds for suspecting them to have been stolen, and without giving immediate information thereof to any public officer; and prisoner No. 11 (Naroo wulud Koosa) in having, at Kanhoor, in the Kurda Talooka of the Ahmednuggur Zillah, between the 30th May 1854 (corresponding with the 3rd Jésht Shood, Shuké 1776) and the 22nd September 1854, (corresponding with the 30th Bhadrupud Wud, Shuké 1776,) received from his father, Koosa Nowla, or from some other person or persons unknown, a copper 'taeet,' or amulet, and three small iron boxes, of the aggregate value of 6 pies, knowing, or having good grounds for suspecting the same to have

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been stolen, and without giving immediate information thereof to any public officer.

Prisoner No. 14 in Case No. 73 (Apajee Gungadhur), concealment before the fact of the aforesaid gang robbery; in that he did, on the night of the 30th May 1854, (corresponding with the 3rd of Jésht Shood, Shuké 1776,) at the village of Kanhoor, Talooka Kurda, Zillah Ahmednuggur, see five or six persons proceed with a ladder towards the house of one Nemichund wulud Tarachund, Marwaree, and apply the ladder to the wall or roof of an adjoining house, with the object of effecting a descent into the house of the said Nemichund wulud Tarachund, for the purpose of robbing, and did fail to give information of the same to any public officer, immediately, or within a reasonable time.

The above charges are read over and explained to the prisoners, and they, being asked whether they plead guilty or not guilty, plead not guilty.

Charge in Cases Nos. 66 and 72.—Conspiracy against prisoners Nos. 1 to 4, and prisoner No. 5 in Case No. 72 (Regulation XVII. Section I. of 1828); in having, between the 12th and 19th July 1854, (corresponding with Ashad Wud 2nd and 10th, Shuké 1776,) at the village of Hatulkhind, Talooka Kurda, Zillah Ahmednuggur, conspired together to injure Rama wulud Nimbia, and Vitia wulud Rama, Mangs, by placing in or near their houses some ornaments and vessels, belonging to Nemichund Marwaree, of Kanhoor, of which he had been robbed, with the object of accusing them of having been connected with a gang robbery which had taken place in the house of the aforesaid Nemichund, on the night of the 30th May 1854, or early on the morning of the following day.

Prisoners being asked if they plead guilty or not guilty, they all plead not guilty.

Charge in Case No. 67.—Against prisoners Nos. 1

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to 3 (Govinda, Luximon, and Nimba), conspiracy (Regulation XVII. A. D. 1828, Section I.); in having, between the 12th July and 20th idem 1854, (corresponding with Mitee Ashad Wud 2nd and 11th, Shuké 1776,) at Kusba Kanhoor, Talooka Kurda, Zillah Ahmednuggur, conspired together to injure Bhowanjee wulud Govindrao, Patel, by placing in his house and fields certain articles belonging to Nemichund wulud Tarachund, Marwaree, inhabitant of Kusba Kanhoor, with the object of accusing and causing him to be convicted of having been concerned in a gang robbery which took place in the house of the said Nemichund wulud Tarachund, on the night of the 30th May 1854, or early on the morning of the following day.

Finding and Sentence by the Session Judge in Cases Nos. 65 *and* 73.—In these two cases there are fourteen prisoners. The first thirteen prisoners in Case No. 65 are charged with gang robbery by night, attended with force, attended with wounding and beating; and the prisoners Nos. 4 and 11 (Tatia and Naroo) are further charged with receiving stolen property, knowing, or having evident grounds for suspecting it to be such; and the prisoner No. 14 (Apajee Gungadhur) is charged, in Case No. 73, with concealment before the fact of the aforesaid gang robbery.

From the evidence recorded in Case No. 65, and from the evidence of Syjia (witness No. 12), the former servant of Govinda (prisoner No. 13), it appears that for six months preceding the robbery in Nemichund's house, prisoner No. 3 (Koosa) had been constantly in Govinda's house, planning the robbery with Govinda; that on the night of the robbery, prisoners Nos. 1 to 13 (Babria, Muthia, Koosa, Tatia, Luximon, Kasee, Geerma, Arjoona, Naroo, Nana, and Govinda and his two brothers Huree and Narain) having assembled together, some from Govinda's house, and others from outside the

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villages of Kurundee and Kanhoor, went to Nemichund's house, accompanied by Syjia (witness No. 12); that Koosa and Geerma (prisoners Nos. 3 and 8) carried a ladder, which they set against the wall of a house adjoining to Nemichund's, which ladder prisoners Koosa (No. 3), Luximon (No. 5), Naroo (No. 11), and Govinda (No. 13) mounted, and having let themselves down into Nemichund's 'wara' (court yard), and having opened the door of Nemichund's from within, admitted the rest of the gang to the house, on the 'ota' (veranda) of which Nemichund was sleeping. Prisoners Koosa (No. 3), Luximon (No. 5), and Govinda (No. 13), having seized and beaten Nemichund, tore off the ornaments which he had upon his person, viz. a gold 'kunthee' or 'goph' (necklace), a silver 'kurgota' or waistbelt, and other articles. They then went into the house, and, having collected all the wearing apparel, brass and other vessels, gold and silver ornaments, and account books, bonds, and decrees, which they could lay hands upon, decamped, and having all met together in a vineyard outside the village of Kanhoor, with their spoil, from thence prisoners Babria (No. 1), Muthia (No. 2), Koosa (No. 3), Geerma (No. 8), and Naroo (No. 11) went away together, at which time Koosa (No. 3) had a bundle of papers with him, and the rest went to a place called the Phooldhura (a deep valley), situated between the villages of Kurundee and Wirolee, and threw the wearing apparel and the vessels into the prickly-pear hedge. From thence prisoners Tatia (No. 4), Kasee (No. 7), and Nana (No. 12) went off to Poonéwaree; Tatia carrying with him a 'purat' (brass vessel) filled with gold and silver ornaments, and Kasee two brass 'wateas' (vessels), and they there agreed, that when 'magmooda modla' (the thing had blown over), they would divide the stolen property. Huree and Govinda (brothers) and Syjia went away to Govinda's house,

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and Luximon to his own house, Govinda having first given to Luximon a silver 'wala' (kind of anklet worn by a young child), and Govinda taking with him a gold kunthee or goph. Narain (prisoner No. 6) and Gainoo (witness No. 11) went to the Kurundee Chowree. That same morning the Kanhoor patrol came to Kurundee in search of Govinda. Having found him at home, they went away. All these particulars are stated in the deposition of Syjia, who was one of the gang, but who has since been made a witness by the First Assistant Magistrate. Syjia (witness No. 12) deposes that witness No. 11 (Gainoo) was one of the gang who committed the robbery. Gainoo in his deposition denies that he was; but the evidence of these two witnesses agrees as to the manner of the robbery, and the disposal of part of the stolen property. Complainant Nemichund (witness No. 2) deposes that he did not recognize any of the gang, because the light which was burning in his house when he went to sleep had been extinguished, and the house was dark; that he was seized by two or three men, who beat him with stones and sticks, and cut his nose with some sharp instrument, which, in attempting to remove, the back of his hand, and the finger next to the little finger were cut, and bled profusely, and that he has not even now the use of his finger. (The Court remarks there are scars upon the bridge of his nose, and the back of his right hand, and that his finger has no life in it.) Syjia (witness No. 12) deposes that Koosa (prisoner No. 3) inflicted the wound upon Nemichund's nose, and Koosa in his statement first said that Gainoo (witness No. 11) had cut Nemichund's nose, but afterwards admitted that he had done so.

It appears that the day following the robbery, as the Kanhoor Patel Bhowanjee (witness No. 21) and the Jaglias were following up the footsteps of the robbers,

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they came to the Phooldhura, when, coming to a fault, they sat down there, as the ground was hard, and covered with grass. Presently Syjia came along the road from Kurundee, driving some cattle. The Police Karkoon, and Peon Babajee, who was there, seized and made a prisoner of Syjia, on the plea that he was driving his cattle over the footsteps, hoping to efface them. When Syjia was a prisoner in the hands of the Police Patel, prisoners Narain (No. 6) and Huree (No. 10) came up and rescued Syjia, taking up stones, and threatening to throw them at the Police Patel and the Jaglias, if they made an attempt to detain him. Syjia deposes that he obeyed the orders of his master Govinda (prisoner No. 13), who told him to take the cattle, and drive them over the footsteps, and threatened to kill him if he refused to do so. The Police Amuldar of Kurda, and the Police Karkoon and others, came to Kanhoor to inquire about the robbery, and seized Govinda (prisoner No. 13) and his brothers and the rest, upon suspicion; but for many days no clue to the robbery was found. The Superintendent of Police, in his deposition No. 20, deposes, that on hearing of the robbery, he went in person to Kanhoor, to make inquiries, where, upon the information of the Police Amuldar, the Police Karkoon, and others, he learnt that the robbery could not have taken place without the connivance of Govinda, and his brothers Narain and Huree, because they were the most suspicious characters in the Parneir Talooka; but none of the stolen property had then been found. He, the Superintendent, returned to Nuggur, when he sent for Govinda, and having questioned him about the robbery, and the authors of it, he (Govinda) agreed to bring the whole to light if he were granted a certificate of pardon, which the Superintendent promised to give him, upon condition of his discovering everything, and producing the stolen property; and he then prepared a certificate, which he signed, but he says

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he cannot remember if he gave it into the hands of Govinda himself or to Luximon Sepoy (a prisoner in another case); but he told Luximon, when Govinda produced all the stolen property, to give him the certificate. That Luximon went away with Govinda. In a few days they returned to Nuggur, and told the Superintendent that the certificate had been lost in the river. Govinda told the Superintendent he must have another certificate, signed by Mr. Grant, which the Superintendent obtained from that Officer, and gave to Luximon Sepoy, and told him, unless Govinda produced all the stolen property, the certificate would not be of any use to him. They then went away again, and in a few days returned, bringing some vessels and other things, which they said were a part of the stolen property found in the search of the houses of Bhowanjee, Patel of Kanhoor, and some Mhars of Wirolee, who were brought as prisoners. Upon inquiry, the Superintendent found that these things were 'tak mooda' (stolen property), deposited by Govinda in the houses of Bhowanjee Patel and the Mhars. Govinda called Gainoo as a witness to disprove their assertions that it was tak mooda. In the course of his evidence, Gainoo stated that the prisoners at the bar Nos. 1 to 13 had planned and committed the robbery. Upon this they were all seized, and the stolen property before the Court discovered. With the exception of a small quantity of wearing apparel, which was dug up out of the field of Muthia (prisoner No. 2), and some 'wyhees' (account books) and papers taken out of a well of Koosa (prisoner No. 3), and a kunthee or goph, taken up out of the court yard of Govinda (prisoner No. 13), which spot was pointed out by his mother (witness No. 57), the remaining articles in evidence before the Court were actually produced or pointed out by prisoners Nos. 1, 2, 3, 4, 5, 7, 11, and 12 themselves, in presence of a Jury, and the

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Police who examined them. This fact has been proved from the evidence of witnesses Nos. 4, 5, 6, 7, 8, 9, 13, 14, 15, 16, 17, and 18 (Hubajee Police Havildar, Mhyputee Jemadar, Bapoojee Police Naique, Peerajee Police Sepoy, Luximon Police Sepoy, Pandoo Police Sepoy, Gungajee Koonbee, Shabia, Tookaram, Kasinath, Dhuriajee Patel, and Bhewa), and the property was produced and identified in their presence.

Babria (prisoner No. 1) having admitted to the Police Patel in the Chowree at Kanhoor that he had got some of the stolen property, they gave information to the Superintendent of Police, who took Babria to his field to point it out. He dug up in one place, but not finding it, he asked his brother Peyma, who was in the field, what had become of it, and he said, that as he was ploughing he found a bundle, which he had buried in a deserted house in the village, where he was taken by the Superintendent of Police, and others, and there he (Peyma) dug up two silver 'génd' (toe-rings), and a silver 'wirodee' (toe-ring), which were examined by a Jury in the Chowree. Muthia (prisoner No. 2), in presence of the Superintendent of Police, himself dug up a silver 'kurgota' (waistband) from under a creeper before his house.

With the exception of the two iron knives, and a broken brass 'buhoogaona' (vessel), Nemichund identifies all the articles in evidence before the Court, which he says is a part of the property stolen from him.

Upon the information of Apajee Gungadhur (prisoner No. 14), that Muthia (prisoner No. 2) was one of those whom he had seen pass his house, carrying a ladder, on the night of the robbery, the Police went to Muthia's field to seize him. He was not there, but some clothes were found buried on the surface of his field, which were brought to the Chowree, and are identified by Nemichund. Muthia (prisoner No. 2) denies having placed the clothes there; and it is not clearly proved who did.

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Some wyhees (account books) and papers, and a 'powle mala' (a necklace of corals), were taken out of Koosa's well (prisoner No. 3). Syjia (witness No. 12) deposes, that when Koosa left the vineyard, he had a bundle of papers with him; and Koosa in his confession states that Babria (prisoner No. 1) threw the account books, &c. into the well; therefore the *onus* of proving how Babria got hold of them rests upon Koosa. The goph (necklace) found buried in the court yard of Govinda's house was pointed out by Govinda's mother Parwutee (witness No. 56), who stated that her son Govinda had given it to her to keep; and this fact is proved by the evidence of witnesses Nos. 4, 5, 15, and 16 (Hubajee Havildar, Mhyputee Jemadar, Tookaram Patel, and Kasinath Koolkurnee), and their evidence is corroborated by Syjia, who deposes that after the robbery Govinda took away a goph; and therefore no stronger proof can be required that the goph fell to the share of Govinda. There are the confessions of the prisoners Nos. 1 to 11. Of these only prisoners Tatia (No. 4) and Naroo (No. 11) confess that they kept a part of the stolen property; the other prisoners describe minutely how the robbery took place, and what property was brought away; and the particulars set forth in their confessions agree with the evidence recorded above. These confessions were first given before the Superintendent of Police, and with the exception of the prisoners Nos. 2, 5, and 7 (Muthia, Luximon, and Kasee), they were confirmed before the First Assistant Magistrate. Before the Sessions Court, all the prisoners deny their previous confessions; but it is proved from the evidence of witnesses Nos. 22 to 26 that they gave their confessions willingly, and that no force, threats, or persuasions were used towards them.

The prisoners in their defence set up a plea that they were beaten, and their confessions extorted from them; but this is not proved from the evidence recorded for the

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prosecution, and prisoners, though they have called several witnesses, have failed to establish that they were in any way ill-treated; and it is shown from the evidence of the Superintendent of Police, that from the time the prisoners were brought to Nuggur till the day of their committal to the Sessions Court, they were nearly the whole time confined in or near a room in his own bungalow. The mother and wife of Govinda (prisoner No. 13) depose that they were beaten; but from the relationship in which they stand to Govinda, little if any reliance can be placed upon what they say, and not produce any evidence to show they were beaten. Nana (prisoner No. 12) denied his guilt from the first; but it is proved from the evidence of witnesses Nos. 11 and 12 that he went with the gang to commit the robbery, and when he was seized he admitted that he was in the robbery, and he produced some of the stolen property from his field, viz. a 'wala' (anklet), two 'thodé' (chain anklets), a 'joopka' or suree (gold necklace), three 'angtee' (rings), and four 'teeba,' as proved from the evidence of witnesses Hubajee Havildar (No. 4), Mhyputee Jemadar (No. 5), Bapoojee Naique (No. 6), Peerajee (No. 7), Luximon (No. 8), Pandoo (No. 9), and Bheema (No. 10). The Court remarks that the certificate which the Superintendent of Police says he drew out and signed, and which was to have been given to him if he had produced all the stolen property, never appears to have reached his hands; and even if it had, as he did not produce all the stolen property, and bring the whole of the robbery and the authors of it to light, it would not have been of any service to him; and moreover, the Superintendent of Police, as the Assistant Magistrate had not power to grant a certificate, under the Interpretation of the Sudder Foujdaree Adawlut, dated the 4th January 1830, upon Section XXXIV. Regulation XII. of 1827, with regard to the certificate afterwards drawn out by the First Assistant Magistrate, and which

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the Superintendent of Police deposes he gave in the presence of Mr. Grant, the First Assistant Magistrate, to Luximon Sepoy, to give to Govinda, upon his discovering the whole of the stolen property, the Superintendent of Police deposes that he does not know what became of this certificate; and if it is true that it was put into the hands of Govinda, it is for him to produce it. The Superintendent of Police, in speaking of the character and antecedents of the prisoner Govinda, states that he has for some years past been the dread of the Kurda Talooka. He deposes that he has ten Talookas of the Nuggur Zillah under his charge; that in these ten Talookas, from the year 1852 to 1854, eighteen serious crimes, including gang and other large robberies, were committed, viz. in nine Talookas nine, and in the Kurda Talooka alone nine; that Govinda, and his two brothers Huree and Narain, were supposed to have been implicated, and were apprehended upon suspicion of having been engaged in all the serious crimes committed in the Kurda Talooka, from the year 1850, but they were subsequently released for want of sufficient proof; and that on several occasions security for their future good conduct was taken from them; that on account of Govinda's bad conduct, Captain Auld had a Peon to watch him at all times, who was only removed by Captain Kemball; that Govinda and Huree were formerly Jaglias, but they were turned out of their situations by Captain Auld, because they had been found to be concerned in robberies; and that these three brothers are men of very bad character.

The Court remarks that Govinda's statement should not have been taken upon solemn affirmation; but as he says he gave it under the supposition that he would receive a pardon, and he now denies all knowledge of it, this mistake on the part of the First Assistant Magistrate cannot be allowed to operate in his favour, and to free him from the penalty of the law. From the evidence of

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Nemichund, it appears that the loss sustained by him in gold and silver ornaments, vessels, and wearing apparel, was Rs. 1,365-1-2, and that by the abstraction of his account books, bonds, decrees, &c. he has sustained a loss of Rs. 3,675-3-0, as he deposes that he held bonds and decrees to the amount of Rs. 3,675-3-0; total Rs. 5,040-4-2. He says that the balance of his 'khata' bonds, decrees, and receipts, which were taken away, amounted to Rs. 6,367-4-9; but the bonds which were without the Statute of Limitation were Rs. 784-8-0, new bonds passed by his debtors Rs. 700-3-0; that one bond, amounting to Rs. 87-6-9, is in the case, and that if he takes copies of the lost decrees, he will recover Rs. 320. He further says, that he has lost Rs. 800, the amount of receipts for monies given to his creditors, but these he will be able to prove; therefore Rs. 2,692-1-9 must be deducted from the above amount, leaving a balance on account of bonds, &c. of Rs. 3,675-3-0, and on account of clothes, ornaments, vessels, &c. Rs. 1,365-1-2, total Rs. 5,040-4-2. This item must be included in the charge; and out of this he has recovered Rs. 570-11-7.

In Case No. 73, Apajee Gungadhur pleads not guilty to the charge; but the Police witnesses (Nos. 38, 39, and 40) depose, that in their presence he (Apajee) stated, that on the night of the robbery he was sitting near a window, in the upper room of his house, from whence he saw prisoners Nos. 1, 2, 3, and 8 (Babria, Muthia, Koosa, and Geerma) passing below, and that Nos. 3 and 8 were carrying a ladder; that one of them stumbled, and the ladder fell, which they picked up; that he (Apajee) afterwards went upon the top of his house, from whence he saw these men set the ladder against Nemichund's house, and which they mounted, and got up on his house; that he did not give information of what he had seen, but went down into his house and slept. The Police reported to the Superintendent of Police what

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they had heard from Apajee, upon which the Superintendent went to Kanhoor, to prisoner's house, and inspected the window, and the top of the house, and satisfied himself that people could be seen from the window passing the road, and that Nemichund's house could be seen from the top of the house, as deposed to by him in his evidence, recorded No. 20.

Upon their own confessions, corroborated by the evidence of the witnesses recorded in the case, coupled with the fact of different articles of the stolen property having been actually produced by the prisoners themselves, in the places in which the articles were concealed, indicated by them, from which they were taken out, some by the Superintendent of Police himself, and others by the Police, in presence of a Jury, the Court finds the prisoners Babria wulud Huree (No. 1), Muthia wulud Chima (No. 2), Koosa wulud Nagojee (No. 3), Tatia wulud Nana (No. 4), Luximon wulud Vitoo (No. 5), Narain wulud Rukhma (No. 6), Kasee wulud Munajee (No. 7), Geerma wulud Balajee (No. 8), Arjoona wulud Vitoo (No. 9), Huree wulud Rukhma (No. 10), Naroo wulud Koosa (No. 11), Nana wulud Tatia (No. 12), and Govinda wulud Rukhma (No. 13), guilty of gang robbery by night, with force, and wounding; in having, at Kanhoor, in the Kurda Talooka of the Ahmednuggur Zillah, on the night of the 30th May 1854, (corresponding with the 3rd Jésht Shood, Shuké 1776,) climbed up to the roof of the house of one Nemichund wulud Tarachund, Marwaree, and entered therein, some of them armed with sticks, stones, and a small weapon, beaten the said Nemichund with them, and carried off his gold and silver ornaments, cloth, articles of wearing apparel, copper and brass utensils, cash, and other miscellaneous articles, of the aggregate value of Rs. 1,365-1-2.

And taking into consideration the strict orders of the Government to the Superintendents of Police regarding

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the suppression of gang robberies, and the penalties to which they subject themselves if gang robberies are not put down; looking, moreover, at the number of the gang, and the loss entailed upon complainant by the carrying away and destruction of his account books, bonds, decrees, &c.; coupled with the injuries he sustained, and the bodily fear he must have been placed in; and regarding the desperate character of the prisoner Govinda, and his two brothers Narain and Huree, and the influence they seem to have had over the people in their neighbourhood, and the fear with which they were regarded by high and low; and in order, if possible, to suppress gang robberies by the strong arm of the law, and to uphold the authority of the Sessions Court, and to show the people that when crimes are fully brought home to parties they will not escape severe punishment,—for the late Superintendents of Police appear to have thought, and to have impressed the people with the idea that, although guilty, prisoners would be acquitted by the Sessions Court,—I am of opinion that a severe example should be made of the prisoners at the bar, and that any mitigation of their sentence by the Sudder Court would lead to most serious results.

Read and recorded a former warrant of prisoner No. 4 (Tatia wulud Nana).

The Court passes the following sentence, under the provisions of Reg. XIV. A. D. 1827, Sect. XXXVII. Clause 1st:—That you, prisoners Koosa wulud Nagojee, Koonbee (No. 3), Tatia wulud Nana, Ramosee (No. 4), Narain wulud Rukhma, Ramosee (No. 6), Kasee wulud Munajee, Sonar (No. 7), Huree wulud Rukhma, Ramosee (No. 10), and Naroo wulud Koosa, Koonbee (No. 11), be imprisoned and kept to hard labour, for the term of eight (8) years each; and that you receive one hundred (100) lashes on your bare backs, twenty-five (25) at each infliction, within three (3) months from the date of your

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imprisonment, which sentence will not be carried out till it has received the final confirmation of the Sudder Foujdaree Adawlut, to which it will be referred.

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That you, prisoners Nana wulud Tatia, Ramosee (No. 12), Luximon wulud Vitoo, Chambhar (No. 5), and Arjoona wulud Vitoo, Chambhar (No. 9), be each imprisoned and kept to hard labour, for the term of seven (7) years; and that you each receive one hundred (100) stripes on your bare backs, twenty-five (25) stripes at each infliction, within three (3) months from the date of your imprisonment.

That you, prisoners Babria wulud Huree, Koonbee (No. 1), Muthia wulud Chima, Koonbee (No. 2), and Geerma wulud Balajee, Koonbee (No. 8), be each imprisoned and kept to hard labour, for the term of six (6) years; and that you each receive seventy-five (75) stripes, twenty-five (25) at each infliction, within the space of three months from the date of your imprisonment.

As there are two other cases against Govinda wulud Rukhma (prisoner No. 13), the Court defers to pass sentence against him till they are disposed of.

Apajee Gungadhur, Brahmin (prisoner No. 14) is found guilty of concealment before the fact of the aforesaid gang robbery; in having, on the night of the 30th May 1854 (corresponding with the 3rd Jésht Shood, Shuké 1776,) at the village of Kusba Kanhoor, Talooka Kurda, Zillah Ahmednuggur, seen five or six persons proceed with a ladder towards the house of one Nemichund wulud Tarachund, Marwaree, and apply the ladder to the wall or roof of an adjoining house, with the object of effecting a descent into the house of the said Nemichund wulud Tarachund, for the purpose of robbing, and failed to give information of the same to any public officer, immediately, or within a reasonable time.

And the sentence of the Court, under the provisions

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of Section I. Clause 5th, Regulation XIV. 1827, is, that you be imprisoned and kept to hard labour, for the term of five (5) years; and that you further undergo solitary confinement for three (3) months, one (1) month at the close of the 2nd, 3rd, and 4th years of your confinement, fifteen (15) days, the first in each of the three (3) months, with conjee diet.

The Court moreover, under the provisions of Act XVI. A. D. 1850, sentences the prisoners Nos. 1 to 12, and 14 (Babria, Muthia, Koosa, Tatia, Luximon, Narain, Kasee, Geerma, Arjoona, Huree, Naroo, Nana, and Abajee) to pay jointly and severally a fine of Rs. 790-2-10, the amount of loss which appears to have been sustained by complainant Nemichund in gold and silver ornaments, wearing apparel, and vessels, in addition to those recovered, which fine, if not forthwith paid, is to be enforced by distress and sale of their goods, with the exception of the goods of those prisoners whose sentence requires the confirmation of the Sudder Foujdaree Adawlut, which will be held in deposit till the final orders of the Court shall have been received. The Court leaves Nemichund to recover by course of law the amount of loss he has sustained by the abstraction and destruction of his account books, and bonds and receipts, in addition to the amount of Rs. 1,365-1-2, which is recorded in the case, and the amount of the decrees lost, which can be recovered by his getting copies of them.

The Court cannot close the case without recording its approbation of the zeal and activity displayed by the Superintendent of Police and his subordinates, in apprehending the robbers, and recovering a part of the stolen property.

Issued the usual warrants to the Nazir, and order directing that the two iron knives and a 'dhotur' are to be sent to the Acting Magistrate for disposal, as it appears the former belong to one Yema, Mussulman, and the

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latter to one Nuthmul, Marwaree; the stones to be thrown away; the ropes and sticks to be given away; and, with the exception of the broken 'buhoogaona' (vessel), which is evidence in another case (No. 67), the whole of the rest of the articles in evidence before the Court to be given to complainant Nemichund.

Finding and Sentence by the Session Judge in Cases Nos. 66 and 72.—A gang robbery having been committed upon the house of one Nemichund wulud Tarachund, a Marwaree of Kusba Kanhoor, the first prisoner at the bar (Govinda wulud Rukhma) went in the month of July 1854, by order of the Superintendent of Police, J. W. Henry, Esq., to search out and bring the stolen property and the robbers. He was accompanied by Luximon wulud Gorajee, Nimba wulud Rokroo, Babajee wulud Malojee (prisoners Nos. 2, 3, and 4), and Bhyrao wulud Rokroo (prisoner No. 1 in Case No. 72 of 1854), and other Police Sepoys; and Gainoo (witness No. 9) was forced by Govinda and Luximon to accompany the party. All these people went first to Kurunda, the village of Govinda, where, as is proved from the evidence of Gainoo and Bhuga (witnesses Nos. 9 and 10), the mother of Govinda, Parwutee, had placed the 'tupela' (a kind of metal vessel) and a 'lhunga' (petticoat), the articles in evidence before the Court, the property of Nemichund, with Bhugwunta oorf Bhuga wulud Ranojee (witness No. 10), which Govinda sent for from him, and he got a silver 'gujra' (bracelet) from Luximon Chambhar, one of the prisoners in the Kanhoor gang robbery (Case No. 65 of 1854) who has been found guilty of having formed one of the gang who robbed Nemichund. It is further proved that Govinda and Nimba (prisoners Nos. 1 and 3) told Gainoo that they were going to deposit these things (tak mooda) in the houses of the Mangs of Hatulkhind and asked Gainoo to accompany them there. This he

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refused to do. Presently Luximon said to Govinda, "Don't take Gainoo with us, because he, being a Mang, will tell the Saheb"; therefore Gainoo remained behind. Afterwards prisoners Govinda (No. 1), Luximon (No. 2), and Nimba (No. 3) took the things away. The first night they stopped at Wirolee, and put up in the Chowree, where Ramdas Bhyrajee (witness No. 11) was living. He was acquainted with Hatulkhind, and it is shown from his evidence that Govinda interrogated him about the houses of the Mangs there, and their dung-heaps, and he (Ramdas) told him about them. Govinda, having gone to one side to smoke, Ramdas observed lying near him a 'tupéla.' On the morning of the next day, the whole of the prisoners and the Police went to Hatulkhind; and there, having turned all the wives and children of the Mangs out of the houses, and driven them away to one side, they called the Police Patel and other village Kamdars, viz. Bohadeen, Tookaram, and Rowjee (witnesses Nos. 5, 6, and 7), and told them they were going to search the houses of the Mangs. They depose that prisoners Govinda (No. 1), Luximon (No. 2), and Babajee (No. 4) talked together apart for a short time, and Bhyrao (prisoner No. 1 in Case No. 72 of 1854) went and seated himself upon the dung-heap of Vitia Mang (witness No. 4), at which time he had a bundle under his arm. The village people asked for a sentry to be sent with them; whereupon Govinda (prisoner No. 1) told Babajee (prisoner No. 4) to go. They objected to him; but they were overruled, and Babajee went to search their houses, and refused to have his person examined before he went into the house of Ramia Mang. Bohadeen and Tookaram (witnesses Nos. 5 and 6) went in with him to search the house. They searched, but found nothing, and were coming out again, when Babajee (prisoner No. 4) was seen by Bohadeen to put a small bundle, tied up in a rag, upon the top of a parti-

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tion wall of the house. Bohadeen said to him, "What are you putting there?" and he at the same time told Tookaram and others what he had seen. Babajee then called out to Ramia Mang (witness No. 3), "What has fallen here?—pick it up." Ramia took it up, and brought it out of the house and said, "Look here; he has placed tak mooda." When the bundle was opened, it was found to contain a silver gujra; when the villagers said to the sentries, "This is tak mooda"; but they would not listen, and began to search the other houses, when Vitoo Mang, and Naria Mang (witnesses Nos. 4 and 12), saw from the place where they were sitting, under a guard, that Bhyrao, who was seated upon the dung-heap, was throwing up the earth; and they called out to the people who were searching, and told them what they had seen. They answered, "They are Government Sepoys." Presently the four prisoners Govinda, Luximon, Nimba and Babajee, and the Gaomkurees (villagers) came to the dung-heap. Prisoner Bhyrao (prisoner No. 1 in Case No. 72 of 1854) was there. At one spot the earth was found to have been turned up, and smoothed over again, and some hair to have been scattered over it. Govinda (prisoner No. 1) said, "Dig up here, and you will find something." They dug up, and found a copper tupela, and a lhunga (petticoat). Vitoo (witness No. 4) said, "It has turned out as I said; they have put tak mooda upon me." The patrol took the 'mooda mal' (stolen property) and the Mangs to Wirolee; and as the things were being examined, and the Jury were writing down all that had occurred, the patrol forbade them, and told them only to write that things had been found; if they chose to tell the rest, they might make a report to the Saheb. The Jury wrote down as they were told, and made a separate report of the circumstances to the Superintendent, which is recorded No. 8. The above narrative of events has been proved by the evidence of witnesses

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Nos. 3, 4, 5, 6, 7, and 12 (Rama wulud Nimba, Vitoo wulud Rama, Bohadeen wulud Chimnajee, Tookaram wulud Vitoojee, Rowjee wulud Sugajee, and Naria wulud Dhondee).

The Superintendent of Police, in his deposition No. 13, states that he went himself, and inspected the houses of the Mangs, and the dung-heap, and he was shown everything as it had occurred on the day in question; and what he saw tallies exactly with all that the witnesses have deposed to; and the Court is of opinion, from the facts above recorded, that the crime of conspiracy, or a combining together by the prisoners to injure Ramia and Vitoo Mangs, has been fully proved against the prisoners, who are accordingly found guilty of conspiracy; in having, between the 12th and 19th July 1854; (corresponding with Ashad Wud 2nd and 10th, Shuké 1776,) at the village of Hatulkhind, Talooka Kurda, Zillah Ahmednuggur, conspired together to injure Rama wulud Nimbia, and Vitia wulud Rama, Mangs, by placing in or near their houses some ornaments and vessels, belonging to Nemichund Marwaree, of Kanhoor, of which he had been robbed, with the object of accusing them of having been connected with a gang robbery which had taken place in the house of the aforesaid Nemichund, on the night of the 30th May 1854, or early on the morning of the following day; and the Court passes the following sentence:—

That you, Babajee wulud Malojee, and Bhyrao wulud Rokroo, be each imprisoned for the term of seven (7) years, with hard labour. (Regulation XVII. of 1828, Section II.)

As there is another charge of conspiracy against the prisoners Govinda, Luximon, and Nimba, sentence against them is deferred till that case shall be disposed of.

Finding and Sentence by the Session Judge in Case No. 67.—A gang robbery having been committed upon

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the house of Nemichund wulud Tarachund, a Marwaree of Kanhoor, and Govinda having told the Superintendent of Police that Bhowanjee wulud Govindrao, Patel, was concerned in the robbery, the Superintendent of Police sent for him to Nuggur, and placed him in confinement; and afterwards Govinda was sent by the Superintendent of Police to get the mooda mal (stolen property), and to produce the prisoner, and he was accompanied by prisoners Luximon (No. 2), Nimba (No. 3), and other Police Sepoys. They went the first day to Kurundee, the village of Govinda, where the mother of Govinda had placed with one Bhugwunta oorf Bhuga wulud Ranajee a 'handa' (an open-mouthed metal vessel), and a red lhunga (petticoat), and some other things which had been stolen from Nemichund in the aforesaid gang robbery, which Govinda caused to be brought from the said Bhugwunta, as deposed to by witness No. 8 (Gainoo), and Bhugwunta oorf Bhuga (witness No. 9). Gainoo states, that when the articles were brought to Govinda's house, Luximon and Nimba (prisoners Nos. 2 and 3) were there. Afterwards, Govinda said to Gainoo: "Tak mooda is to be put in Bhowanjee Patel's house at Kanhoor, so come with us." He (Gainoo) refused to do so. Govinda said to him, "Ranoo Ramosee of Kanhoor is acquainted with Bhowanjee's house, therefore call him"; that Luximon and Nimba were present at the time, and heard this. Gainoo went, and brought Ranoo, who talked apart with Govinda. Gainoo went away, and left them talking. Ranoo Ramosee (witness No. 4) deposes: "Govinda said to me, 'Tak mooda is to be put in Bhowanjee's house, therefore show me the house'"; that he (Ranoo) agreed to do so; and he and Govinda agreed together that they should meet together that night at the Kanhoor tank, and that he would go with him to Kanhoor, and point out the house; that he (Ranoo) went to Kanhoor, and told

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Bhowanjee's father, Govindrao Patel, what was preparing for him. In the evening Ramjee, Soobedar of the Ahmednuggur Police, came to Kanhoor, and made him sleep at the Chowree; and therefore he did not go to meet Govinda, as agreed upon. From the evidence of witness No. 2 (Govindrao), Bhowanjee's father, it appears that the next day prisoners Nos. 1 to 3 and others came to search his house, when Luximon (prisoner No. 2) would not allow himself to be searched, but went to the top of the house, and Govinda (prisoner No. 1) remained below, standing near the door, and the other people went in to search the house; but not finding anything, the people came out, and Luximon (prisoner No. 2) came down from the top of the house, and called Govinda into the 'chowk' (court yard) of complainant's house, where they talked together in the Ramosees' or thieves' language, and Govinda said, "I have some suspicion; we must search the house again"; and the people went in again to search the house, when they found lying on the ground under a 'dhora,' or opening in the roof of the house, a white bundle, which, on being brought out of the house, and opened, was found to contain a silver wala (anklet), and a silver suree (necklace), the articles in evidence before the Court, and Govindrao called out to the people, "Tak mooda has been put upon me.' Witnesses Nos. 6 and 7 (Mulee and Rama), servants of complainant, were at the top of the house. Luximon and Nimba (prisoners Nos. 2 and 3) told them to go down; but as they refused to go, Luximon threatened to beat Rama, who was going down, when he and Mulee saw a white bundle with Luximon, who put his arm into the dhora, with the bundle in his hand; after which these two witnesses saw Luximon below, and they called out from above that Luximon had thrown down something; but they were not listened to. Dhuriajee Patel, Luximon, and the servants of complainant, observed that

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some cobwebs of the dhora were adhering to Luximon's arm. There was a great cry of 'Tak mooda!' but in the noise and confusion no heed was given. The people who had come to search then went to Govindrao's field, where prisoner No. 1 (Govinda) pointed to the boundary-mark of his field, and said, "Look here." The ground was dug up, and a handa, a gagur, and a red lhunga were taken out, as proved from the evidence of witnesses Nos. 2, 3, 5, and 10 (Govindrao, Dhuriajee, Luximon, and Sunt Patel); and it moreover is proved, from the evidence of witness No. 5 (Luximon), that Govinda told him, that when he mentioned Bhowanjee Patel's name, and that he was in prison, Govinda said, "We are going to put tak mooda in his house." It is not shown who put the things in the field; but from the narrative, it appears these things were first in possession of Govinda, and that he pointed to the boundary-mark in Govindrao's field, and told them to dig there; and therefore the natural inference and a violent presumption is, that Govinda must either have put them there himself, or got some one else to do so. If not, why should he have gone to the field, and why should he, when there, at once have pointed out the boundary-mark, and told them to dig there, had he not been sure of finding the things for which he was in search? It appears from the evidence of Syed Boodhun (witness No. 11), that he was one of the party who left Nuggur with Govinda, Luximon, and Nimba in search of the stolen property; that these two latter dined always at Govinda's, and when Govinda came to the Chowree he sat apart with these two men, and not with the other Sepoys, and they talked together in a low tone of voice, so as not to be heard.

The prisoners in their defence have called Ramjee Soobedar (witness No. 17); but instead of giving evidence in favour of the prisoners, he deposes that there was a great outcry that Luximon (prisoner No. 2) had put tak

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mooda in Govindrao's house; and that there were cobwebs upon Luximon's arm. The Court is of opinion that the evidence against Govinda and Luximon is most conclusive; and the fact of Nimba being at the top of Govindrao Patel's house with Luximon, and ordering the servants of Govindrao who were there to go down; his having been present when the 'bhandee' (vessels) were brought to Govinda's house, and also when Govinda told Gainoo that tak mooda was to be put in Bhowanjee Patel's house; having always dined at Govinda's house, and when in the Chowree talking apart with Govinda and Luximon: all these circumstances combine together to shŏw that he was privy to the conspiracy, and are sufficient, in the opinion of the Court, to convict him of having combined with Govinda and Luximon to injure Bhowanjee wulud Govindrao Patel. The prisoners are therefore found guilty of conspiracy; in having, between the 12th July and 20th idem, 1854, (corresponding with Mitee Ashad Wud 2nd and 11th, Shuké 1776,) at Kusba Kanhoor, Talooka Kurda, Zillah Ahmednuggur, conspired together to injure Bhowanjee wulud Govindrao Patel, by placing in his house and fields certain articles, belonging to Nemichund wulud Tarachund, Marwaree inhabitant of Kusba Kanhoor, with the object of accusing and causing him to be convicted of having been concerned in a gang robbery which took place in the house of the said Nemichund wulud Tarachund, on the night of the 30th May 1854, or early on the morning of the following day.

And against prisoners Luximon wulud Ghorajee (No. 2), and Nimba wulud Rokroo (No. 3), another charge of conspiracy has been proved in Case No. 66 of 1854, and they are this day convicted, in Case No. 67 of 1854, of conspiracy.

The Court therefore, under the provisions of Regulation XVII. A. D. 1828, Section II., passes the following sentence:—

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That you, Luximon wulud Ghorajee, and Nimba wulud Rokroo, be each imprisoned and kept to hard labour, for the term of ten (10) years; and Govinda wulud Rukhmajee, having been found guilty under date the 31st January 1855, in Case No. 65 of the General Calendar for 1854, of gang robbery by night, with force, and this day in Case No. 67 of the General Calendar for 1854, of conspiracy, the Court, under the provisions of Regulation XIV. Section XXXVII. Clause 1st of A. D. 1827, and Regulation XVII. Section II. of A. D. 1828, passes the following combined sentence:—

That you, Govinda wulud Rukhmajee, be transported beyond seas, for the term of your natural life. These sentences are, however, subject to the confirmation of the Sudder Foujdaree Adawlut, to which Court the cases will be referred.

Minute recorded by Mr. M. Larken.—The conviction of Koosa, Narain, and Huree may be confirmed. The evidence against the prisoners Tatia, Kasee, and Naroo, is too much open to suspicion to allow of their conviction, and they should be acquitted. The prisoner Apajee (No. 14) was first made a witness; and his cognizance of the robbery did not justify his being arraigned for concealment. I would annul his conviction and sentence, and also discharge the prisoners Nana, Arjoona, and Geerma, whose convictions are unsound.

I am of opinion that the prisoner Govinda (No. 13) was sheltered by his pardon from all penal consequences, and that he must be acquitted.

I would notice to the Session Judge, that the distress should not have been carried out before the Sudder Foujdaree Adawlut reviewed the trial, as the cases of all the prisoners were subject to review, though the sentences on all did not require the Court's confirmation.

I would also remark, that much of Captain Henry's deposition is not applicable to the case under trial, and

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should not have been recorded. The proceedings, in other respects, are loaded with hearsay. And further, no advantage to the public can result from the minute divulgments of the Police as to how they obtain their information. If such divulgments were volunteered by the Policemen, their discretion and fitness for their duty are open to question; if elicited by the Session Judge, in examination, he should abstain from a practice which must damage the efficiency of the Police, and be injurious to the parties who give information.

Nos. 66 *and* 72.—I am not satisfied with the sufficiency of the evidence in this case, except as it affects the prisoner Govinda.

No. 67.—The convictions of Govinda and Luximon may be confirmed. I would acquit Nimba.

Minute recorded by Mr. W. H. Harrison.—The proof against the prisoners in this case of gang robbery consists for the most part of their confessions before the Police Authorities, supported by the evidence of the Police themselves, in regard to finding articles of stolen property in their possession, and that of two approvers.

The evidence of the approvers, according to the law we have to administer, can only be received in corroboration of other testimony, or as strengthening impressions produced by circumstances.

With this case come two others from the Session Judge of Ahmednuggur, in which four Sepoys of the Ahmednuggur Police Force are convicted of conspiring with one of these gang robbers to implicate innocent persons in this crime, by placing in their houses articles stolen on the occasion, and pretending to find them there. These acts, moreover, took place in the presence of their Officers, and of others of the Corps; and their Superintendent, Captain Henry, in giving his evidence, remarks that they were committed so openly and clumsily, as to lead to the belief that the practice is not an uncommon

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one. It is further stated by Captain Henry, in his evidence in this case, that he deemed it necessary to confine the prisoners in his own house, lest their guard, the Ahmednuggur Police, should, by conspiring with them, defeat the ends of justice.

It is impossible, under such circumstances, that reliance can be placed upon the evidence as to the finding stolen property with the accused parties, so far as it rests upon the unsupported testimony of the Police witnesses. The confessions of the prisoners being all repudiated in the Sessions Court, are of no value without corroboration; and I am bound to look the more strictly for it here, because men who would concoct other evidence to prove a charge would not hesitate to extort confessions to the same end.

Without independent testimony, therefore, there remains but a slender foundation for the evidence of the approvers to rest upon in respect to many of these prisoners.

Setting aside the testimony, which for the above reasons I consider liable to much distrust, I find against the prisoners No. 1 (Babria), No. 2 (Muthia), No. 3 (Koosa), No. 5 (Luximon), No. 6 (Narain), No. 10 (Huree), and No. 13 (Govinda), the evidence of witnesses Nos. 16, 17, 18, 19, 20, 21, and 54, as to stolen property being produced by them from places of concealment, which being corroborated by that of the approvers, the conviction of gang robbery may stand against them.

The other prisoners should be acquitted, as I do not find sufficient proof against them to justify their conviction.

The witness No. 14 deposes, in regard to property averred to be produced by prisoners Nos. 4 (Tatia) and 7 (Kasee), that they denounced it at the time as "deposited."

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The prisoner No. 13 (Govinda) pleads that he is entitled to immunity for his share in this robbery, because he was promised, and received a written acknowledgment of a pardon from the Superintendent of Police, and the Assistant Magistrate.

That the proposal was made and adopted, of pardoning this man, and taking his evidence as an approver, is admitted; and although neither of the Authorities alluded to had any legal power to grant such a pardon, Govinda's knowledge of that fact cannot be presumed; and if his conviction rested upon information given, or confession made, under such sanction, I should unhesitatingly declare that the promise must be fully respected, and the prisoner discharged from the consequences of his crime. It is apparent, however, that this man did not observe the conditions on which he was offered and promised a pardon; and that he abused the opportunity afforded him of escaping the penalties of the laws he had broken, by endeavouring to mislead the Authorities, and to implicate innocent persons.

I am, then, of opinion, that none of the information given by this prisoner, in the expectation of release, is to be used against himself, and that the case against him ought to be considered as if no such occurrence had taken place; but, further, that he is not entitled to benefit by the pardon illegally promised, and of which the conditions were flagrantly violated by himself. The circumstances deposed to lead to the conclusion that prisoners No. 6 (Narain), No. 10 (Huree), and No. 13 (Govinda), were the principals in this gang robbery; and I would sentence the first two to six years' imprisonment, with hard labour. The sentence of prisoner No. 13 (Govinda) is passed in another case.

I should sentence prisoners No. 1 (Babria), No. 2 (Muthia), No. 3 (Koosa), and No. 5 (Luximon) to four years' imprisonment, with hard labour.

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The prisoner No. 14 is charged and convicted of concealment before the fact of the robbery. Being a neighbour, he appears to have witnessed the approach and attack of the gang on Nemichund's house. Three of the Police depose to getting information from him; but they do not agree as to his naming the same individuals, four in number according to one, as identified by him among the gang. That he could see the robbery occur from the top of his house is held to be a damning fact against him; but so far as the record goes, I find no reason for convicting him of concealment before the fact, —nothing to lead to suspicion, even, that he had any previous knowledge of the intended outrage. He knew that a robbery had occurred, as all the rest of the village must have known. That he did not denounce the robbers, if he recognized or suspected any of them, at once, need scarcely be wondered at, when we find him arraigned for trial among them, as the reward of giving any information at all. He should be acquitted and discharged.

In Cases Nos. 66 and 72 of the Ahmednuggur Calendar which comes up with this, the prisoner Govinda, above alluded to, is convicted of conspiracy with four Ramosee Sepoys of the Nuggur Police, in having concerted to injure two Mangs of the village of Hatulkhind by placing in their houses articles stolen in the gang robbery at Nemichund's, and pretending to find them there, with a view to implicate the Mangs in that crime.

After duly considering the evidence on record, and the manner in which the charge is met by the accused, I come to the conclusion that the prisoners were rightly convicted.

Two of them Sepoys, Babajee and Bhyrao, were sentenced to seven years' imprisonment, against which sentence they appeal.

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The other two Sepoys, together with Govinda, are sentenced in Case No. 67 of the Nuggur Calendar, in which they are also tried for conspiracy, in having themselves placed stolen property in the house of Bhowanjee, Patel of Kanhoor, in order falsely to implicate him in the gang robbery at Nemichund's. On review of this case also, it is my opinion that the charge is made out against the prisoners, and that they have been rightly convicted.

The two Sepoys Luximon and Nimba have been sentenced, for these two instances of conspiracy, to ten years' imprisonment, with hard labour, which we are called upon to confirm.

Considering all the circumstances of these cases, and that these men were acting under the very eye of their own Officers, whose ignorance of their acts it is indeed very difficult, if not impossible to conceive, I am of opinion that the ends of justice will be attained by a lighter sentence.

The prisoner Govinda has been convicted of gang robbery in two instances,—of endeavouring to fasten the guilt of gang robbery upon innocent persons, by putting stolen property in their houses, and pretending to find it there. He is sentenced by the Session Judge to transportation; but considering that the chief guilt of the conspiracy rests with the Police, I should pronounce a mitigated sentence for his combined offences.

In regard to the proceedings on these trials, I observe that the evidence of Captain Henry, the Superintendent of Police, was taken, although he was conducting the prosecution. As a general rule, the character of witness is so far inconsistent with that of prosecutor, that the latter must be considered an interested party; and it is certainly to be condemned in this case, that when the evidence for the defence was going on, the prosecutor should be called into the witness-box to contradict one of the deponents, instead of weakening the testimony

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by cross-examination,—the only course open to him. This procedure I hold particularly objectionable, as likely to intimidate the prisoner's witnesses. It was, moreover, illegal. For the most part, the Superintendent's evidence in these cases was only hearsay, and should not have come on the record, which is also burdened with much irrelevant matter, and disfigured by many clerical errors.

In respect to the charges of conspiracy (Cases 66 and 67), I may remark, that inasmuch as the public wrong involved in the success of the plots was more grave than the private wrong, the object of the crime should have been set forth as to pervert the course of public justice, instead of to injure the parties immediately affected.

It is by prompt and zealous action, such as Captain Henry seems to have displayed on this occasion, that such deeds as are here brought to light on the part of the Police can alone be checked. From anything that appears on the record, however, it is unintelligible to me how the conduct of the Officers of the Police has been passed by. Two of them, Ramjee Subedar and Dhokulsing Naik, are stated to have been present when the stolen goods were placed, and pretended to be found. Dhokulsing denies all knowledge of it; but Ramjee Subedar deposes that he heard the outcry that the attempt raised on the part of the bystanders. Is it to be supposed that the Sepoys, who were arraigned for their share in the crime, would have committed it unknown to their Officers present at the time? If no responsibility is to be exacted from such persons, no trust reposed in them, why should they be employed at all? I consider that these proceedings should be laid before Government, who will doubtless exact an explanation from the parties indicated, and require some security from them that they did not knowingly countenance the infamous conduct of their subordinates, as the price of their

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continuing in such important situations, and, it may be, their immunity from criminal prosecution.

Resolution of the Sudder Foujdaree Adawlut in Cases Nos. 65 *and* 73.—The convictions of the prisoners Koosa (No. 3), Narain (No. 6), and Huree (No. 10) are confirmed, and Nos. 6 and 10 are sentenced to six (6) years' imprisonment, with hard labour; and Koosa (No. 3) to four (4) years' imprisonment, with hard labour.

The prisoners Tatia (No. 4), Kasee (No. 7), and Naroo (No. 11), are acquitted, and are to be discharged.

The sentences on prisoners Babria (No. 1), Muthia (No. 2), and Luximon (No. 5), are mitigated to four (4) years' imprisonment, with hard labour.

The convictions and sentences on the prisoners Nana (No. 12), Arjoona (No. 9), Geerma (No. 8), and Apajee (No. 14), are annulled, and they are to be discharged.

The conviction of Govinda is referred to a third Judge.

The convictions in Cases Nos. 66 and 72 are referred to a third Judge.

The convictions of Govinda and Luximon, in Case No. 67, are confirmed. Nimba's conviction is referred to a third Judge.

Minute recorded by Mr. A. Remington.—The law does not recognize a conditional pardon—vide Interpretation on Section XXXIV. Regulation XII. A. D. 1827.

The record shows that Govinda first stipulated for a pardon, and then required his certificate should be endorsed by the Assistant Magistrate, and with that understanding he gave his deposition on solemn affirmation.

Such being the facts, the conviction seems questionable in law; and on the broad principle that it is unfair to admit a man as a witness, and then turn round and prosecute him, I would acquit Govinda.

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I am unable to distinguish between the evidence recorded in Cases Nos. 66 and 72, and that in No. 67, where Govinda and Luximon already stand convicted; and I would therefore only acquit Nimba, Babajee, and Bhyrao, the first convicted in all three, and the other two in Nos. 66 and 72 only.

Final Resolution of the Sudder Foujdaree Adawlut.—The prisoner Govinda is acquitted in Cases Nos. 65 and 73.

The convictions and sentences on the prisoners Nimba, Babajee, and Bhyrao, are annulled, and the convictions of Luximon and Govinda are confirmed in Cases Nos. 66 and 72.

The prisoner Nimba is acquitted in Case No. 67.

The prisoners Govinda and Luximon are sentenced to five (5) years' imprisonment, with hard labour, in Case No. 67.

The Court, considering that the evidence of the Police Officers given in this case of gang robbery is open to so much suspicion, has resolved to acquit all the prisoners against whom no independent testimony appears on record.

The attention of the Session Judge is directed to the irrelevancy of much that is on record, which, being matter of opinion and hearsay, and not evidence, should have been altogether excluded. The Court allude more especially to the depositions of Captain Henry, the Superintendent of Police, and of several of the Police Officers themselves. It is for the most part unnecessary and objectionable for a Sessions Court to enter all the circumstances of the detection of a crime under inquiry; and the record should be as much as possible confined to a recital of those facts on which the judgment is based.

In respect to the prisoner No. 14 in Cases Nos. 65 and 73 (Apajee), the Court finds nothing in evidence to show that he had any previous knowledge of the intent to commit a robbery, so that his conviction of concealment before the fact is necessarily annulled.

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The attention of the Magistrate is to be directed to the illegality of the proceeding of his First Assistant, and the Superintendent of Police, in regard to this man, which has led to his escape from the penalty of this crime. The conduct of Govinda also affords a fit warning as to the admission of an approver without due caution, and the necessity of scrutinizing narrowly the testimony such a witness may give.

The object of the conspiracy tried in Cases Nos. 66 and 72, and 67, should have been set forth as to pervert the course of public justice; the public wrong involved being of more weight than the injury to individuals.

The zeal and promptitude displayed by Captain Henry, in investigating and exposing the conduct of the Police, which has formed the subject of investigation in two of these trials, merits the commendation of the Sudder Foujdaree Adawlut; but the proceedings of some of the members of the Police Force appear so very questionable, that the Court resolves to lay all the cases before Government, for such notice as may be deemed requisite by the Executive.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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TANNA.

[Case No. 22 of the Calendar of the Konkun Sessions Court for 1855. Committed by Mr. R. H. SHOWELL, Deputy Magistrate, on the 30th March 1855. Tried by Mr. C. M. HARRISON, Session Judge, on the 11th, 12th, and 13th April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Shaik Ameen wulud Shaik Sooltan, Mussulman, aged 28.

Wilful Murder.

Charge.—Wilful murder (Regulation XIV. Section XXVI. Clause 1st of 1827); in having, at about 3 o'clock P. M. of Tuesday, the 23rd January 1855, (cor-

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Wilful Murder.

responding with Mungulwar, Magh Shood 6th, Shuké 1776,) in his dwelling-house at the village of Kasara, Talooka Kolwan, Zillah Konkun, without justifiable or extenuating cause, inflicted on his wife Beejan, aged fourteen years, various injuries, by means of a stick, and kicks and blows, so that from the effects thereof she on the night of that day died.

Finding and Sentence by the Session Judge.—The prisoner is charged with murder, and pleads not guilty.

On the day and date specified in the indictment, at about 3 o'clock in the afternoon, the deceased (the prisoner's wife), her mother Mytap, and another woman, Tolabeebee, were sitting grinding 'bajree,' and singing in his house, at Kasara, when he came in, and struck the former a violent blow on the back with the handle of a Native axe. On being asked by her mother what he was about, he replied—"I heard you singing out in the jungle; why dont you sing louder?" and then went out to his father's shop, which is close at hand. In the mean time, hearing his wife (who was crying) tell her mother and Tolabeebee to give up grinding, he returned, seized her by the hair, and dragged her down backwards; and then, putting one knee upon her stomach, inflicted cuffs and blows with his fists on her chest, and other parts of her person, to such an extent as to cause injuries from the effects of which, and the blow on her back, she died the same night.

Excepting that the deceased, her mother, and companion, appear to have been singing too loud to please him, no cause is apparent for this most violent, unprovoked, and brutal assault. Improper behaviour on his wife's part is not even hinted at; and he has not the very doubtful excuse of having been excited by drink.

The Inquest Report shows that injuries were discovered on the deceased's person which, in the opinion of the members, caused her death; and the evidence of the

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witness Mytap (No. 5), her mother, who witnessed the savage assault, and endeavoured to rescue her daughter from the prisoner's hands, and of Tolabeebee (witness No. 8), who was also present, and saw the first blow struck with the handle of the axe (when she went away home, but subsequently returned, and found Beejan, the deceased, lying insensible); corroborated as their testimony is by that of the Purdésee Luxshuman (witness No. 6), who, having a shop in the neighbourhood, and hearing the cries of the deceased and her mother, went to the spot, where he found the prisoner with his knee on the deceased's stomach, striking her on the chest, and other parts of her body with his fists; who, seizing him by the hand, dragged him out of the house; and who also saw the mark of a blow from a stick on her back: of the prisoner's father, Shaik Sooltan (witness No. 9), who says he heard Beejan crying from his shop, which is 15 paces distant from the prisoner's residence, and turning round, saw him give her a slap on the arm; and who deposes to Luxshuman Purdésee having then come and taken away the prisoner; to Mytap having told the prisoner that he had murdered Beejan; to the deceased Beejan's illness and death, the same night; and to the prisoner's absconding: of the Puthan Noorkhan (witness No. 7), who was called up to exorcise the deceased, but who did not find her to be suffering from 'Bhaotbadee' (disease occasioned by malignant spirits), as Sooltan (his brother-in-law, and the prisoner's father) wished it to be believed: and finally, of the Naique Shaik Imam, who apprehended the prisoner at Lonee, in His Highness the Nizam's territory, to which place he absconded on the night of the murder; and who states that he first gave him a feigned name, and then admitted the assault on his wife, though he denied having murdered her; and also to his countenance having fallen, and to his having exhibited other signs of fear, on being captured.

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The prisoner has brought forward nothing in his defence to shake in any way the evidence for the prosecution; and as the Court, under the above circumstances, entertains no doubt whatever of his guilt, and considers that the fact of his having returned to the assault, after leaving the house, renders it impossible to find him guilty of any minor offence, he is convicted of murder; in having, at about 3 o'clock P. M. of Tuesday, the 23rd day of January 1855, (corresponding with Mungulwar, Magh Shood 6th, Shuké 1776,) in his dwelling-house, at the village of Kasara, Talooka Kolwan, Zillah Konkun, without justifiable or extenuating cause, inflicted on his wife Beejan, aged fourteen years, various injuries, by means of a stick, and kicks and blows, so that from the effects thereof she on the night of that day died; and after maturely considering the nature of the offence committed, the fact of there being no extenuating circumstance apparent in the case, and the punishment provided for the same by Clause 4th Section XXVI. Regulation XIV. of 1827, the following sentence is passed:—

That you, Shaik Ameen wulud Shaik Sooltan, be hanged by the neck until you be dead, at the usual place of execution at Tanna. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I do myself the honour to forward, for the purpose of being laid before the Judges of the Sudder Foujdaree Adawlut, a counterpart of my proceedings held in the above case, wherein the prisoner Shaik Ameen wulud Shaik Sooltan was tried and convicted before me of murder, and sentenced to be hanged by the neck until he be dead, at the usual place of execution at Tanna, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

I deem it my duty to report, for the information of

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the Judges, that it has been brought to my notice that this prisoner was, on the 27th December 1848, tried before this Court, charged with culpable homicide, in having assaulted and caused the death of his former wife, and was acquitted and discharged.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to certify the English proceedings in the case referred to by him in his letter submitting this trial.

Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—The English proceedings in Case No. 109 of the General Calendar of 1848 are herewith certified to the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

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POONA.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 36 of the Calendar of the Poona Sessions Court for 1855. Committed by Mr. E. C. JONES, Magistrate, on the 19th April 1855. Tried by Mr. R. KEAYS, Session Judge, on the 26th and 27th April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoners.—No. 1, Doorga wulud Vitoo, Mhar, aged 30.
2, Shidoo wulud Vitoo, Mhar, aged 35.
3, Somia wulud Hunmunta, Mhar, aged 30.
4, Gunoo wulud Hunmunta, Mhar, aged 46.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, at Morgaum, Talooka Poorundhur, Zillah Poona, on Monday, the 2nd April

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POONA.

Murder.

1855, (corresponding with Chuitru Shood 15th, Shuké 1777,) committed an assault upon Gureebia Mang, with sticks and a hatchet, in the course of which prisoners No. 2 (Shidoo) and No. 3 (Somia) held him, while prisoner No. 1 (Doorga) struck him a blow on the head with the hatchet produced in Court, from the effects of which he died the same day, prisoner No. 4 (Gunoo) standing by, and countenancing them in the commission of the act.

Finding and Sentence by the Session Judge.—The prisoners No. 1 (Doorga), No. 2 (Shidoo), No. 3 (Somia), and No. 4 (Gunoo) are charged with wilful murder, in the instance set forth in the charge, and severally plead not guilty.

From the evidence recorded in this case, it appears that on the day before the fatal catastrophe which gave rise to the present prosecution, two Mang women, the wife and sister of the deceased, went down to the river to draw water. Whilst they were there, a woman of the Mhar caste, a daughter of prisoner No. 4 (Gunoo), also came to the river for the same purpose, and a quarrel, amounting, however, to merely a war of words, occurred between the Mhar and Mang women.

Now, from the evidence of Police Patel and others, it seems that the Mhars and Mangs of this village are at enmity, and have on several occasions broken the peace. The Mhar woman immediately went home from the river, and complained to the males of her caste, on which the prisoner No. 4 (Gunoo) and prisoner No. 3 (Somia) proceeded to the Mangwara, and beat the females Salee and Sukee.

This gave rise to a complaint by these parties to the Police Patel, to whose neglect and carelessness, in not taking immediate steps to prevent further breach of the peace, may be mainly attributed the tragedy which ensued. This Police Patel has himself acknowledged before this

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Court that he was well aware that feelings of hostility existed between the Mangs and Mhars; the Court therefore views his apathetic conduct on the occasion with the greatest dissatisfaction, and submits it to the Magistrate whether such a person is fit to remain in the situation of Police Patel.

After a fruitless attempt to obtain justice from the Police Patel, the women and complainant returned home, with which the first act is closed.

Early the next morning, as we learn from the statement of nearly the whole of the witnesses for the prosecution, whose evidence corresponds almost exactly, the prisoner No. 4 (Gunoo) again presented himself at the Mangwara, and commenced a quarrel with complainant. The words which passed on the occasion are faithfully mentioned by every witness. He was accompanied by the prisoner No. 3 (Somia), who, as soon as the feud had been recommenced, went off to the Mharwara for assistance, and almost immediately returned, accompanied by a number of his caste; which shows that the scheme was a well planned, preconcerted one. He and the prisoner Shidoo immediately seized the deceased Gureebia, and began beating him with sticks. He, being unarmed, endeavoured to escape, when one seized him round the waist, another round the chest; and whilst he was in this situation, the prisoner No. 1 (Doorga) came up, and gave him a severe wound on the head with a hatchet. Finding that he was dangerously hurt, the dastardly assailants went away, and the wounded man was carried and laid down before the Police Patel. He was speechless and senseless at the time, and died the same evening at half-past seven o'clock. The Police Patel made the usual report; the Mahalkuree came to the village, and investigated the matter; and an Inquest was held on the body. From the Inquest Report, proved by the evidence of two of

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the members, the deceased is pronounced to have died from the effects of the wound on the head.

Added to the above evidence against the prisoner Doorga, which of itself is quite conclusive of the prisoner's guilt, the Court remarks, that on searching his house a hatchet stained with blood was discovered, concealed in some grain.

As the part which each of the prisoners took in this affray is clearly proved by the evidence, the Court has no hesitation in pronouncing the whole of them guilty of the offence with which they are charged, and they are accordingly convicted of wilful murder ; in having, at Murgaum, Talooka Poorundhur, Zillah Poona, on Monday, the 2nd of April 1855, (corresponding with Chuitru Shood 15th, Shuké 1777,) committed an assault upon Gureebia, Mang, with sticks and a hatchet, in the course of which prisoners No. 2 (Shidoo) and No. 3 (Somia) held him, while prisoner No. 1 (Doorga) struck him a blow on the head with the hatchet produced in Court, from the effects of which he died the same day, prisoner No. 4 (Gunoo) standing by, and countenancing them in the commission of the act.

Having duly considered the nature of the offence proved against the prisoners, and the amount of punishment allowed for the same under the Regulation, the Court passes the following sentence :—

That you, prisoner No. 1 (Doorga wulud Vitoo), No. 2 (Shidoo wulud Vitoo), No. 3 (Somia wulud Hunmunta), and No. 4 (Gunoo wulud Hunmunta), be transported beyond seas, for the term of your natural lives. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut. (Regulation XIV. of 1827, Section XXVI. Clause 1st.)

Minute recorded by Mr. A. Remington.—The Session Judge found that there was a concerted design on the part of the Mhars to commit a breach of the peace, and

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that prisoner No. 4 (Gunoo), though not actually concerned in the assault upon deceased, was on the spot, and near enough to take part, and assist the others, and that the quarrel being traceable to him, he was not present as a disinterested party. Further, whatever the Mangs may have done, the violence was all on the side of the prisoners.

I would convict of culpable homicide.

Minute recorded by Mr. W. H. Harrison.—The witnesses to the assault are all of one caste; but their statements correspond, and are corroborated by the Police Patel, and the prisoners have brought no evidence to rebut the charge. They allege that it is the result of a league against them; but there is nothing to support this assertion.

The impression left upon me by the proceedings is, that in a quarrel the deceased lost his life, and that at the hands of the prisoners. There is an aspect of some exaggeration on the part of the evidence for the prosecution, as for instance in regard to the exact fitting of the axe into the wound on deceased's skull. That the axe was stained with blood is not a conclusive fact against the accused, considering their caste and occupation. I think there is sufficient reliable evidence as to the facts to conclude the prisoners guilty of culpable homicide, and would sentence them to a term of imprisonment.

Resolution of the Sudder Foujdaree Adawlut.—The prisoners are convicted of culpable homicide, and sentenced to five (5) years' imprisonment, with hard labour.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

TANNA.

[Case No. 20 of the Calendar of the Konkun Sessions Court for 1855. Committed by Mr. C. GONNE, Assistant Magistrate, on the 24th March 1855. Tried by Mr. C. H. CAMERON, Assistant Session Judge, on the 28th March 1855. Reviewed by Mr. C. M. HARRISON, Session Judge, on the 4th April 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Perjury.

Prisoner.—Purushram Jugunath, Brahmin, aged 55.

Charge.—Perjury (Regulation XIV. Section XVI. Clause 1st of 1827); in that he did, on Tuesday, the 28th day of November A. D. 1854, (corresponding with Margsheersh Shood 9th, Shuké 1776,) before the Police Officer of the Sunjan District, in his Office at Dahanoo, in the Sunjan District of the Tanna Collectorate, state on solemn affirmation that he had been on Saturday, the 23rd day of September 1854, (answering to Ashwin Shood 1st, Shuké 1776,) attacked and robbed of jewels and other valuables, worth Rs. 849-8-0, by Tumee (woman) and five others, near the village of Kilway, in the Mahim District of the Tanna Collectorate; the same statement being false, and prisoner's object, in thus wilfully committing perjury, being a desire so to vex and annoy the said Tumee as to compel her to at last consent to come and live with him, the prisoner.

The prisoner pleads not guilty.

Finding and Sentence by the Assistant Session Judge.—From the evidence in this case, it is clearly proved that Narayen Patkur, Kursun Bhugwandas, and Anundrao Ramchunder, could not possibly have been engaged in this robbery; also from the evidence of Sepoys Nos. 9 and 10, it is distinctly proved that the Mamlutdar of Mahim, and Trimbuk the Karkoon, were, at the time they are accused by prisoner of neglecting his demand

for aid, after having been robbed, at Kamlolee. It therefore appears to be clearly proved, that in order to make Tumee come and live with him again (she had just left him), he made this wilfully false charge, implicating, besides the woman, respectable people. The disgrace and trouble which these poor people have been put to is very great, and the motive was as bad as the act. The prisoner has been before this in Jail. His defence is manifestly false, and shows that he has no shame whatever. The portion relating to his conduct in Jail is only an additional reason for increasing his punishment, as it shows that no reformation has been accomplished in his case.

The prisoner is accordingly convicted of the crime charged against him; in that he did, on Tuesday, the 28th day of November A. D. 1854, (corresponding with Margsheersh Shood 9th, Shuké 1776,) before the Police Officer of the Sunjan District, in his Office at Dahanoo, in the Sunjan District of the Tanna Collectorate, state on solemn affirmation that he had been on Saturday, the 23rd day of September 1854, (answering to Ashwin Shood 1st, Shuké 1776,) attacked and robbed of jewels and other valuables, worth Rs. 849-8-0, by Tumee (woman) and five others, near the village of Kilway, in the Mahim District of the Tanna Collectorate; the same statement being false, and prisoner's object, in thus wilfully committing perjury, being a desire so to vex and annoy the said Tumee as to compel her to at last consent to come and live with him, the prisoner.

Read and recorded copy of warrant (No. 12) against prisoner in a case of homicide, sentencing him to fourteen years' imprisonment, which was, however commuted to seven years', dated 16th March 1838, No. 12.

The Assistant Session Judge proceeds to pass the following sentence :—

That you, prisoner Purushram Jugunath, do suffer

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imprisonment with hard labour, for three (3) years; and do receive fifty (50) stripes, twenty-five (25) to be given on the 2nd January 1856, and twenty-five (25) on the 2nd January 1857. (Regulation XIV. Section XVI. Clause 2nd of 1827.)

Subject to the confirmation of the Session Judge.

Letter from the Assistant Session Judge to the Session Judge.—I do myself the honour to lay before you, for confirmation, my proceedings held in the above case, wherein the prisoner Purushram Jugunath has been tried and convicted before me of perjury, and sentenced to be imprisoned and kept to hard labour, for the space of three years, and to receive fifty stripes, twenty-five on the 2nd January 1856, and twenty-five on the 2nd January 1857.

Review by the Session Judge.—Having read over all the papers and proceedings in the case, and had due deliberation thereon, the conviction and sentence are confirmed; but the corporal punishment will be inflicted as follows: twenty-five stripes one month from this date, and twenty-five stripes one month thereafter.

Resolution of the Sudder Foujdaree Adawlut.—The Court do not disturb the conviction, but mitigate the sentence to one year's imprisonment with hard labour, without flogging, which is an improper punishment to inflict upon a man so advanced in life as the prisoner is stated to be.

The Assistant Session Judge is to be informed, that an Officer connected with the Jail should have been called to depose to the prisoner's identity with the convict in the warrant recorded after conviction; and he is to be further informed to confine his judgment in future to a summary of the evidence, instead of making allusions to the past career of a prisoner under trial, and which are quite out of place before conviction.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SHOLAPORE.

[Case No. 7 of the Calendar of the Sholapore Sessions Court for 1855. Committed by Mr. J. A. G. DUFF, Third Assistant Magistrate, on the 24th January 1855. Tried by Mr. C. M. HARRISON, Session Judge, on the 27th January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Embezzlement of Public Money.

Prisoner.—Kashee Nursinwu, Brahmin, aged 25.

Charge.—Embezzlement of public money (Regulation XVI. of 1827, Section XXVII. Clause 1st); in having, on Sunday, the 9th day of July 1854, (corresponding with Aditwar, Ashad Shood 14th, Shuké 1776,) at Hulsungee, in the Indee Talooka of the Sholapore Zillah, received from Timuka kom Nagupa Rs. 5-4-0, on account of an instalment of revenue due by Hoonsupa wulud Geeriapa, for which sum he granted a receipt to the said Hoonsupa, but appropriated the amount.

Finding and Sentence by the Session Judge.—The prisoner is charged with embezzlement of public money, and pleads not guilty.

The prisoner does not deny having written the receipt for the item of Rs. 5-4-0 specified in the charge, but asserts that he never received the amount, and that it was written by mistake, another ryot having paid through another woman a similar sum, which he inadvertently entered in Hoonsupa's book.

It is, however, satisfactorily proved, by the evidence of Hoonsupa and his sister, and also by the extract recorded from the former's receipt-book (Nos. 2, 3, and 4), that the amount he is charged with embezzling was paid to and received by the prisoner; and the extract from Pudmuna's receipt-book (recorded No. 6) shows the defence he made before the Third Assistant Magistrate to be altogether false, the item of Rs. 5-4-0 being

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entered in Pudmuna's receipt-book, as paid under date 24th June 1854, and by himself, instead of, as asserted by the prisoner, through Ningwa kom Rama.

Before this Court he makes no defence, and he is accordingly convicted of the embezzlement of public money; in having, on Sunday, the 9th day of July 1854, (corresponding with Aditwar, Ashad Shood 14th, Shuké 1776,) at Hulsungee, in the Indee Talooka of the Sholapore Zillah, received from Timuka kom Nagupa Rs. 5-4-0, on account of an instalment of revenue due by Hoonsupa wulud Geeriapa, for which sum he granted a receipt to the said Hoonsupa, but appropriated the amount.

Visajee Bapoojee (witness No. 7), aged 49 years, caste Brahmin, occupation Acting Nazir, inhabitant of Sholapore Talooka, and Zillah Sholapore, is called into Court, and after solemn affirmation deposes :—

"The prisoner at the bar, having been convicted of fraud, and making use of a forged document, knowing it to be such, in Cases from 53 to 59 of the General Calendar for 1854, was, under date the 31st August 1854, sentenced to be imprisoned with hard labour, for three years, and to pay a fine of Rs. 200, or be further imprisoned with hard labour, for one year; and a warrant, No. 316, issued, which I now produce. He is a prisoner in the Criminal Jail, undergoing the above sentence. Having appealed against the abovementioned sentence to the Sudder Foujdaree Adawlut, his petition was returned rejected."

A warrant (No. 8) of the Sessions Court of Sholapore, dated 31st August 1854, from which it appears that the prisoner was convicted and sentenced as above described, is read, and having been proved by the above witness, a copy is taken and recorded.

And having also been convicted, in Case No. 5 of the General Calendar for 1855, of fraud in official accounts,

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after maturely considering the nature of the offences committed, and the punishment provided for the same by Regulation XVI. of 1827, Section XXVII. Clause 1st, the following sentence is passed:—

That you, Kashee Nursinwu, be imprisoned and kept to hard labour, for one (1) year; and pay a fine of two hundred (200) rupees, or be further imprisoned for one (1) year, with hard labour;—to commence at the expiration of the sentence passed upon you under date 31st August 1854.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to report on the allegation in the petition, that petitioner was told he should have produced his evidence before the Assistant Magistrate.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report upon the allegation in the petition, that the prisoner was told to reserve his evidence for the Sessions Court.

Return to the Precept to the Session Judge.—In returning the petition which accompanied the within Precept, the Deputy Magistrate in charge of the Adawlut has the honour to report that there is nothing on the record of the Session Judge's proceedings relative to the allegation contained in it, it being distinctly stated therein that the prisoner had nothing to say, nor any witnesses to call in his defence.

Return to the Precept to the Magistrate.—In execution of this Precept, the First Assistant Magistrate in charge has the honour to report that it appears from the proceedings in the case, that on the prisoner Kashee Nursinwu being asked, he stated before the Third Assistant Magistrate that he had no further evidence to adduce, nor anything to say in his defence. The allegation of the petitioner seems therefore to be unfounded.

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Resolution of the Sudder Foujdaree Adawlut.—The sentence is mitigated to one month's imprisonment, without labour, as the Court are of opinion that the prisoner has been sufficiently punished for frauds committed as a Revenue Officer under his former sentence of three years' imprisonment, and a fine.

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Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq: / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 77 of the Calendar of the Ahmednuggur Sessions Court for 1854. Committed by Dr. S. M. PELLY, Assistant Magistrate of Nassick, on the 13th November 1854. Tried by Mr. J. W. WOODCOCK, Session Judge, on the 10th, 12th, 13th, and 16th February 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Removing her own Pregnancy by Procuring Abortion; and Aiding in the Commission of the Crime.

Prisoners.—No. 1, Bhagee, wife of Bughoo, Kolee, aged 22.
2, Khéroo, wife of Lala, Mussulman, aged 35.
3, Yakoob Alee wulud Mhyboo Alee, Mussulman, aged 30.

Charge.—Against prisoner No. 1 (Bhagee), removing her own pregnancy by procuring abortion (Regulation XIV. of A. D. 1827, Section XXVIII.); in having, on Wednesday, the 25th of October 1854, (corresponding with Mitee Kartik Shood 4th, Shuké 1776,) at Indoray, Talooka Dindoree, Zillah Ahmednuggur, of her own free will and accord, procured abortion of her child, when about five months pregnant, by thrusting up her privity a piece of stick, with some medicine not known applied to it; and against prisoners Khéroo and Yakoob (Nos. 2 and 3), aiding in the commission of the above crime; Khéroo by giving medicine, and Yakoob by

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disposing of the fœtus. (Regulation XIV. A. D. 1827, Section XXVIII. and Section I. Clause 5th.)

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The prisoner Bhagee (No. 1) is charged with removing her own pregnancy, by procuring abortion.

The prisoners Khéroo and Yakoob (Nos. 2 and 3) are charged with aiding in the aforesaid crime.

From the confession of Bhagee (prisoner No. 1), it appears that Yakoob keeps the sister of Bhagee, and that three or four days before her pregnancy was removed, Yakoob had brought Bhagee to Indoray, in order that he might assist her in procuring abortion, and had kept her in the house of Khéroo, who is his sister. Lalun (witness No. 11), who lived in Khéroo's house, deposes that one night the three prisoners were sitting in Khéroo's house, when Bhagee said to Khéroo—"My pregnancy has very much increased; give me medicine to remove it"; and Yakoob also told Khéroo to give Bhagee medicine, which Khéroo consented to do; and this fact has been corroborated by the confessions of Bhagee and Yakoob.

It appears from the evidence that there is a 'dangur' (a plant that produces black pompion) creeper outside Khéroo's house, which runs over Yakoob's house, in which creeper Bhagee had concealed herself on the evening of the day that her pregnancy was removed, and that Bala Lohar (witness No. 6), who was passing by that way, heard the leaves of the creeper rustle, and supposing that some person was concealed in it, he called out to the Police Patel Alee (the evidence of this man has not been taken, because he is the brother of Yakoob, and the Assistant Magistrate has recorded that he is to be tried for neglect of duty), who was sitting in Marootee's temple, which is also the Chowree, near at hand, to come

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and see if any one was concealed in the creeper. Upon this, Alee sent Ranoo Jaglia (witness No. 8) to see who was there, and he came and found that a woman was hiding herself in the creeper. He brought her to the Chowree, and found her to be the prisoner Bhagee, where, on being questioned, she confessed that Yakoob had brought her there, and had got his sister Khéroo to give her medicine, with which she had removed her pregnancy; that the abortion was in Khéroo's house. It is further proved, from the evidence of witnesses Nos. 4, 6, 8, and 10, (Meera Saheb, Bala Lohar, Ranoo Jaglia, and Krishnajee Wunjaree) that Bhagee was taken to Khéroo's house, where search was made for the fœtus, but it could not be found. After this, Meera Saheb went to Dindoree, and gave information of what had happened to Sukharam Indraman, Police Jemadar, who went with Alee Khan (witness No. 9) to Indoray, and they again questioned Bhagee, who repeated what she had before stated, as recorded above. The next morning, Sukharam Jemadar and Alee Khan searched Khéroo's house, when they found a piece of stick, covered with some red-looking stuff, and a cloth ('furka') with blood stains upon it. Bhagee pointed out the place in the house where her pregnancy had been removed, and the ground was found to be damp, and ashes spread over it, which had been swept; and there were marks of blood. This is proved from the evidence of witnesses Nos. 4, 8, and 9 (Meera Saheb, Ranoo, and Alee Khan). On the arrival of the Mamlutdar at Indoray, to make inquiries, he questioned the prisoners. Yakoob (prisoner No. 3) admitted to him that he had thrown the fœtus which had been produced by Bhagee into a well outside the village. Yakoob and Bhagee were taken by the Mamlutdar and others to the well, into which Krishna Wunjaree (witness No. 10) and three Kolees (who have not been examined) descended, and Krishna brought up a bundle

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with a stone attached to it, which, when opened, was found to contain the fœtus of a female infant, and Bhagee then confessed that it was her fœtus, and Yakoob confessed that the bundle was the same which he had thrown into that well. This is proved from the depositions of witnesses Nos. 4, 9, and 10 (Meera Saheb, Alee Khan, and Krishna Wunjaree).

There was a piece of stick, with something smeared over it, found in the house of prisoner No. 2 (Khéroo). What this red stuff is has not been shown; but Bhagee confessed that this was a stick which she put up her vagina. Khéroo denies that she gave the stick to Bhagee for this purpose; but she admits, and Bhagee confesses, that it is the same stick she (Bhagee) thrust into her vagina; and what object could she possibly have had for doing so, if she did not fully believe that the stuff smeared over it was of a nature to effect the purpose which she had in view? There is the confession of prisoner No. 1 (Bhagee) and prisoner No. 3 (Yakoob), the former that she removed her own pregnancy, and the latter that he aided Bhagee in the commission of the crime; and on these confessions of the prisoners, and the circumstances before detailed, prisoner Bhagee is accordingly found guilty, under Section XXVIII. Regulation XIV. A. D. 1827, of removing her own pregnancy, by procuring abortion; in having, on Wednesday, the 25th October 1854, (corresponding with Kartik Shood 4th, Shuké 1776,) at Indoray, Talooka Dindoree, Zillah Ahmednuggur, of her own free will and accord procured abortion of her child, when about five months pregnant, by thrusting up her privities a piece of stick, with some medicine (not known) applied to it; and Yacoob is found guilty, under the provisions of Section I. Clause 5th, and Section XXVIII. Regulation XIV. A. D. 1827, of aiding in the commission of the above crime; in having, on the 25th October 1854, (corresponding

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with Mitee Kartik Shood 4th, Shuké 1776,) disposed of the fœtus by throwing it into a well.

And the Court passes the following sentence, under the provisions of Regulation XIV. A. D. 1827, Section XXVIII., and Section I. Clause 5th of the same Regulation :—

That you, Bhagee, wife of Rughoo, and Yakoob Alee wulud Mhyboo Alee, be each imprisoned five (5) years and two (2) months, viz. five (5) years with hard labour, (you Bhagee with labour befitting your sex), and two (2) months in solitary confinement, one month at the close of the fourth and fifth years of your imprisonment.

Prisoner No. 2 (Khéroo) is charged with aiding in the committal of the above crime, but it has not been proved against her from the evidence recorded. From her confession, and the depositions of the witnesses, it would appear she was aware that Bhagee had come to her house in order that she might remove her own pregnancy, and that she afterwards did so; and with this guilty knowledge she (Khéroo) concealed the crime, and did not make it known to the Police. In her statement, Khéroo tries to exculpate herself by saying she was sick at the time, and therefore she did not mention it to any one; but the Court remarks, if she were really sick, she might have sent some one to give notice of Bhagee's intention, and thus have prevented the crime, or afterwards have made it known.

Khéroo is accordingly found guilty of concealment before and after the fact of the aforesaid crime; in being aware that prisoner No. 1 (Bhagee) was going to remove her own pregnancy, and had subsequently done so, and not giving information to any Government Officer at the time, or subsequently; and the Court passes the following sentence, under the provisions of Sect. I. Clause 5th, and Sect. XXVIII. Reg. XIV. A. D. 1827 :—

That you, Khéroo, wife of Lala, be imprisoned two

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(2) years and six (6) months, with labour befitting your sex, and thereafter one month in solitary confinement.

Minute recorded by Mr. A. Remington.—The confession of Bhagee is sufficiently corroborated to warrant her conviction, and I would sentence her to six months' imprisonment, with hard labour.

Khéroo denied from the first having aided the abortion, and the evidence only proves that the delivery took place in the house; and in respect to Yakoob, her brother, the only aid he was convicted of having rendered is the subsequent removal of the fœtus, which did not connect him with an offence already committed.

Khéroo and Yakoob are brother and sister, and related in the same degree to the Patel, with whom the village Jagheerdar, styled in these proceedings complainant, is at enmity; and hence, perhaps, the evidence of such witnesses as Mutee and Thukee (Nos. 12 and 13).

I would accordingly acquit both these prisoners.

Minute recorded by Mr. W. H. Harrison.—The conviction of the prisoners Bhagee and Yakoob (Nos. 1 and 3) I do not see cause to interfere with.

Concealment after the fact of the offence indicated is not penal, and the conviction of prisoner Khéroo (No. 2) must be so far amended.

The sentences of all the prisoners are of disproportionate severity, and should be much reduced.

Resolution of the Suddur Foujdaree Adawlut.—The sentence passed on Bhagee is mitigated to six months' imprisonment, with hard labour.

The conviction of Khéroo and Yakoob referred to a third Judge.

Minute recorded by Mr. M. Larken.—These prisoners are charged with aiding in procuring abortion; and Yakoob is found guilty to the extent of throwing the fœtus into a well.

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I do not think even so much is proved against him, and I would annul his conviction and sentence.

The prisoner Khéroo is convicted of concealment before and after the fact. Concealment after the fact, as has been remarked, is not penal; and whether a conviction of concealment before the fact, under an indictment for aiding, is sound or not, I do not stop to consider; for I am of opinion that concealment before the fact is not established, and I would annul the conviction and sentence.

Final Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence of Khéroo and Yakoob are annulled, and they are to be discharged.

The plea column in the Register of Petitions made it appear that the prisoner had pleaded guilty before the Assistant Magistrate; whereas the plea before him, as appears from his original proceedings, was distinctly not guilty. The attention of the Session Judge is to be drawn to this very grave mistake, in view to its avoidance in future.

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Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 1 of 1854. Committed by Mr. W. J. TURQUAND, Acting Joint Magistrate of Nassick, on the 19th October 1854. Tried by Mr. J. W. WOODCOCK, Session Judge of Ahmednuggur, at Nassick, by order of the Sudder Foujdaree Adawlut, dated the 11th October 1854, No. 2488, on the 13th, 14th, 15th, 16th, 19th, 20th, 21st, and 26th December 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Murder; and Aiding and Abetting in the Crime.

Prisoners.—No. 1, Wakojee wulud Ramjee, Mahratta, aged 41.

2, Sudojee *alias* Ramjee, Koonbee, aged 38.

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Prisoners.—No. 3, Ramsing wulud Shamsing, Purdésee, aged 26.
4, Bhowansing wulud Nuthsing, Purdésee, aged 21.
5, Dhondee wulud Ryajee, Koonbee, aged 35.
6, Gutoo wulud Bhewjee, Koonbee, aged 35.
7, Bapoo wulud Hybutrao, Koonbee, aged 30.

Charge.—Murder (Regulation XIV. Section XXVI. Clause 1st A. D. 1827); in having, between 4 and 5 P. M. of Thursday, the 10th August 1854, (corresponding with the 2nd Shrawun Wud, Shuké 1776,) in the city of Nassick, Sub-division Nassick, Zillah Ahmednuggur, taken a prisoner, Gunoo wulud Nagoo, aged about nineteen years (charged with having that same day murdered a child named Syee, aged about five years, the daughter of Bhow Datia, for the sake of its ornaments), to the cowshed of Luteeb, prostitute, and there beaten him, and forced the handle of a Native umbrella up his anus, to make him confess himself the murderer of the said child, from the effects of which torture he (Gunoo) died on the fourth day afterwards, viz. the 13th August 1854.

And against prisoner No. 7 (Bapoo) aiding and abetting in the above crime (Regulation XIV. Section XXVI. Clause 1st, and Section I. Clause 5th); so far as that he stood at the time and place alluded to outside of the said cowshed, to prevent anybody coming there.

The above charges are read over and explained to the prisoners, and they being asked whether they plead guilty or not guilty, plead not guilty.

Finding and Sentence by the Session Judge.—The prisoners Nos. 1 to 6 are charged, under Regulation XIV. Section XXVI. Clause 1st A. D. 1827, with murder; in having, between 4 and 5 P. M. of Thursday, the 10th

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August 1854, (corresponding with the 2nd Shrawun Wud, Shuké 1776,) in the city of Nassick, Sub-division Nassick, Zillah Ahmednuggur, taken a prisoner, Gunoo wulud Nagoo (charged with having that same day murdered a child, the daughter of Bhow Datia, for the sake of her ornaments), to the cowshed of Luteeb, prostitute, and there beaten him, and forced the handle of a Native umbrella up his anus, to make him confess himself to be the murderer of the said child, from the effects of which torture he (Gunoo) died on the fourth day afterwards, viz. the 13th August 1854.

The charge sets forth in a parenthesis, that Gunoo was charged with having that same day murdered a child, the daughter of Bhow Datia, for the sake of its ornaments. The Court would remark that the prisoner Gunoo was not *charged* with the murder,—he was suspected of having made away with the child, as the ornaments were found upon him; but he at first denied after his capture any knowledge of what had become of the child, and the torture was inflicted in order to make him confess what he had done with the child.

The charge further sets forth that the handle of a Native umbrella was forced up his anus, and that he was beaten: the Court remarks that Gunoo was not beaten, and there is not any evidence that he was.

There are four umbrellas, not Native, but Chinese, made of paper, painted black, with bamboo handles; also the handle of an umbrella of this sort, in evidence before the Court; but it is not set forth that any one of these handles was the instrument made use of; but having been found—in the houses of the prisoners Bhowansing (No. 4) 1 umbrella; Sudojee (No. 2) 2 umbrellas; Dhondee (No. 5) 1 umbrella handle—they were sent up to the Sessions Court, because deceased Gunoo, in his deposition taken before his death, stated that an umbrella handle had been forced up his anus.

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Prisoner No. 7 is charged, under Regulation XIV. A. D. 1827, Section XXVI. Clause 1st, and Section I. Clause 5th, with aiding and abetting in the above crime; so far as that he stood at the time above alluded to outside of the said cowshed, to prevent anybody from coming there.

The Court remarks that the terms made use of in Clause 5th are instigating or aiding in, and not aiding or abetting in.

The Acting Joint Magistrate, Mr. Turquand, at the close of, and, as it were, in a note at the end of his summing up the evidence in the case, remarks it is for the Session Judge, looking to the intention with which the criminal act was perpetrated, to decide whether murder or culpable homicide was committed; and as to the attainment of substantial justice, I have no doubt of the propriety of viewing the criminal act as murder rather than as culpable homicide, by which course the Session Judge is not prevented convicting of what may more appropriately be thought the crime.

The Acting Joint Magistrate is not very clear in this passage; but I suppose he meant to say that the Sessions Court having charged the prisoners with murder, is at liberty to convict them of the lesser crime, culpable homicide.

Section XXVI. Clause 1st Regulation XIV. A. D. 1827 defines murder to be purposely, and without justifiable or extenuating cause, depriving a human being of life; it therefore remains for the Court, as the Acting Joint Magistrate has doubts as to the correctness of the charge, to decide whether the prisoners have been guilty of murder, or culpable homicide, or merely of serious assault.

The Court considers it necessary, for the elucidation of the case, to show what led to the perpetration of the crime with which the prisoners are charged.

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It appears from the evidence in the case, that about 3 o'clock in the afternoon of the 10th August 1854, the Foujdar or Joint Police Officer of the town of Nassick got intelligence from prisoner No. 5 (Dhondee wulud Ryajee) that Syee, the daughter (a child between four and five years of age) of a man by name Bhow wulud Bhowanee Datia, residing in the town of Nassick, in the Wowra Alley, near Hurkoowur prostitute's house (vide plan of premises recorded No. 30), was missing, together with her ornaments. Upon this the Foujdar sent out several of his Peons, among whom, probably, were some of the prisoners, who are Government Peons, (but the Foujdar has not a distinct recollection of this,) in search of the child; and he himself went to make inquiries from the parents of the child with regard to their missing child; and he learnt from the mother, Nukhee, that from the time her daughter Syee had been missing, one Gunoo, who was 'mowas bhow' (cousin) of the child, had not been seen, and could not be found; and that he was suspected of having made away with the child for the sake of its ornaments. The Foujdar then sent in search of Gunoo, and about 4 o'clock of the same day Pandoo wulud Khundoo (witness No. 15), Sydoo wulud Syed Bala (witness No. 16), and prisoner No. 4 (Bhowansing) brought Gunoo to the Foujdar, at which time he, the Foujdar, in his deposition recorded No. 29, states he was behind Hurkoowur's house; but the witnesses are divided upon this point. At this time prisoners Nos. 1 to 6 (Wakojee, Sudojee, Ramsing, Bhowansing, Dhondee, and Gutoo) were there, as deposed to by witnesses Nos. 22 to 26 (Luximon, Anajee, Gungaram, Rama, and Bapoo), who concur in saying that Wakojee Patel (prisoner No. 1) asked Gunoo what had become of the child. He answered, "I do not know." Wakojee Patel then gave Gunoo a slap upon the head, which knocked off his turban, out of which fell a pair of silver 'sanklia' (chain

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anklets), worn by women. He was then searched, and other ornaments found upon him. In the mean time the child Syee's mother, Nukhee, and her 'mowsee' (aunt) Bhagee (witness No. 12) had come to the spot, and on being shown the ornaments, they identified them as those which were upon the child Syee; and they also recognized Gunoo. Upon this, Wakojee Patel said to Gunoo, "The ornaments have been found upon you; where is the child?" He answered, "I know nothing about the child; you have thrown the ornaments upon me." The witnesses aforenamed also concur in saying that the Foujdar told Wakojee Patel—"Take him to one side, and question him, as he is afraid, and will not confess before me"; whereupon prisoners Nos. 1 to 7 led Gunoo to the alley, which is 119 measured 'kudums' (paces), at the end of which is a door, marked No. 2, through which prisoners Nos. 1 to 6 carried Gunoo, and the door was closed behind them; and Bapoo (prisoner No. 7) stood outside the door in the alley, and forbade people, who had crowded into the alley, to come near. Within this door (the Court has personally examined the premises) is a garden belonging to Luteeb, prostitute (witness No. 39), and at the corner of it, near the door, a cowshed, marked No. 3, into which prisoners are charged with having taken Gunoo, and there thrust the umbrella handle up his anus. The witnesses are divided as to the exact time the prisoners remained inside the door, but it ranges from half a 'ghutka' to a ghutka and a half; at the end of which time prisoners issued from the door of the cowshed, with Gunoo, and the prisoners brought him to the Foujdar, who was sitting at Amun Tambolee's shop, when Wakojee Patel (prisoner No. 1) said to the Foujdar, "Gunoo has agreed to show the child"; whereupon the Foujdar said, "Take him to the place where he shall point out the child, and I will send and inform Mr. Bell, and when he comes, I

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will follow to the place with him." Upon this prisoners Nos. 1 to 6 took Gunoo away. To this effect is the evidence of the witnesses Nos. 22 to 26. It is shown from the evidence of several witnesses that Gunoo pointed out a well in a field on the Taklee road, about three quarters of a koss from the town of Nassick, which spot the Court has also visited, into which he said he had thrown the child; and the corpse was found floating at the top of the water, and it was taken out. Afterwards, the Assistant Superintendent of Police, Mr. Bell, and the Foujdar came to the well, when Mr. Bell questioned Gunoo about the child, and he confessed that he had taken off her ornaments, and thrown her into the well, and came away. It appears that as the Foujdar was taking down the statement of Gunoo, the Mamledar of Nassick came to the well, and Mr. Bell, having performed his duty, went away. An Inquest was afterwards held upon the corpse of Syee, and the whole multitude returned to the town of Nassick. After 8 o'clock the Foujdar accompanied Gunoo as far as his own house, and there ordered him to be taken to the Foujdar's Kutchery. The Foujdar got intelligence about 12 o'clock that night that Gunoo had a pain in his belly, and fever. He ordered the Native Doctor Balabhow (witness No. 6) to be informed. This witness deposes that Trimbukjee Duffedar and Rama Jemadar came to his house at 4 o'clock in the morning, and called out to him from the road that a prisoner in the Foujdar's Kutchery, accused of murder, had a pain in his belly. Balabhow told them he would come and see him in the morning, and they went away. About 7 o'clock in the morning, Balabhow was on his way to the Foujdar's Kutchery to see the prisoner, when he met Sudojee Duffedar (prisoner No. 2) on the road, and asked him how the prisoner was. He said, "He is well; there is no necessity to go and see him now": but the Doctor (Balabhow) went on, and saw the

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prisoner, who complained of a pain in his belly. He ordered him some medicine, and went away. In the evening Balabhow went again to see the prisoner, who said: "My belly pains me very much; and Wakojee Patel, Sudojee Naique, Ramsing, Bhowansing, Dhondee, and Gutoo, Peons (prisoners Nos. 1 to 6), threw me down upon my face, and thrust a stick up my anus; and therefore I am very ill, and my belly pains very much." Balabhow deposes that he went and told the Foujdar what Gunoo had told him; that he came and asked Gunoo, and he repeated to the Foujdar the same story he had told him. The Foujdar deposes, that when he questioned Gunoo, he said, "It is happened to me according to my 'nuseeb'" (luck); that he again questioned him as to the persons who had done it, and he said, "I am not going to give names." Balabhow deposes that he ordered leeches to be applied to the belly of Gunoo, and afterwards fomentations of hot water, and he went home. At 7 o'clock the next morning, Saturday the 12th, he again went to see Gunoo, when, from his countenance, not thinking he would live, he ordered him to be sent to the Civil Hospital. About 8 o'clock he was brought there, when he was seen by Dr. Pelly, the Civil Surgeon, to whom Balabhow related the same story about the ill-treatment prisoner had received as he had told Balabhow. Dr. Pelly ordered medicines to be given, and leeches to be applied, as described in the depositions of Dr. Pelly and Balabhow. The same day the Foujdar went to the Hospital, and took his deposition on solemn affirmation. It has not been recorded in the Sessions Court's proceedings, as it was to the same purport as that given before the Joint Magistrate on the 13th August, which is recorded No. 7. On the 13th August, (Sunday,) about half-past 7 o'clock in the morning, Dr. Pelly deposes that he again saw Gunoo, when he found him very ill, and, as it appeared to him, in a dying

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state. Gunoo then told him that the Police Peons had thrust an umbrella handle up his anus. Upon hearing this, he (Dr. Pelly) went in person, and gave information to the Acting Joint Magistrate, who returned to the Hospital with him about 10 o'clock. Presently Mr. Bell, Assistant Superintendent of Police, came there, and, in the presence of Mr. Bell and Dr. Pelly, the Acting Joint Magistrate took the deposition of Gunoo upon solemn affirmation, in which he gave the names of prisoners Nos. 1 to 6, and that they had taken him into Luteeb's cowshed, thrown him down with his face upon the ground, and then and there thrust the handle of a paper umbrella a span and a half up his anus; and the same evening about 3 o'clock he died. That he (Gunoo) did not see which man had the handle in his hand, and thrust it up his anus; that besides the prisoners there was not any other person there; that he (Gunoo) put his fingers to his anus, and they were covered with blood, but there was not any blood upon the ground; that there were spots of blood upon his dhotur, which, the day after he was in confinement in the Foujdar's Kutchery, viz. the 11th, was taken away by a Hulalkore, and the blood stains washed off, and brought back to him; and that he was beaten on his way to the Trimbuk gate; that he was not beaten after he had been taken to the Foujdar; that he afterwards confessed to the murder, when he was taken to the well into which he had thrown the child, where the corpse was found. It is proved from the depositions of Dr. Pelly and the Native Doctor (witnesses Nos. 5 and 6), that at the time Gunoo's deposition was taken, he was in full possession of his senses, and was quite aware of all that he deposed to; and there is also a certificate to this effect under the signature of Dr. Pelly, at the foot of Gunoo's deposition. Dr. Pelly states* that the *post-*

* *Dr. Pelly's Deposition.*—S. M. Pelly, Esq., of the Protestant Religion, about thirty-five years of age, profession medicine, in the service

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mortem examination of Gunoo's body was made about 5 o'clock on the evening of Sunday the 13th August, about two hours and a half after his death; that, to the best of his recollection, Balabhow, his Native Assistant,

of the Honorable the East India Company, resident of Nassick, Talooka Nassick, Zillah Ahmednuggur, is called into Court, and being duly admonished, deposes on oath :—I know the prisoners by sight. The deceased Gunoo wulud Nagoo was brought to the Civil Hospital on the 12th of August 1854. I first saw him the same day between 7 and 8 A. M. There was great pain of the abdomen, which increased by the touch of the hand, and it therefore appeared to me that inflammation had set in; and there were other symptoms of acute enteritis. I asked him the cause of his pain. He said he had been kicked and beaten on the stomach by the Police. He did not mention any names. I ordered him to be leeched and fomented. I do not remember that he said anything that day about a stick having been thrust up his anus. I first went and made a verbal report to the Acting Joint Magistrate at his house; I then returned to the Hospital, and made a written report to the Acting Joint Magistrate about half-past 10 o'clock, that a man had been brought to the Hospital, who had all the symptoms of acute enteritis, and that he attributed his illness to the injuries he received from the Police. I saw Gunoo again at the Hospital about 5 o'clock P. M.; I did not find him better, and I therefore ordered him medicine to assuage the pain in his abdomen, and to reduce the imflammation. This was on Saturday. The next morning, Sunday, I saw him again: he was much worse, and was sinking, and I did not think he could live long; so I went immediately to Mr. Turquand, the Acting Joint Magistrate, and suggested that the deposition of Gunoo should be taken. As far as I can recollect he (Gunoo) then for the first time mentioned that the Police had thrust the handle of an umbrella up his anus. Mr. Turquand went with me at once to the Hospital, where Mr. Bell, Assistant Superintendent of Police, joined us, and Mr. Turquand himself took the evidence of Gunoo upon solemn affirmation. I also wrote a certificate at Mr. Turquand's request, that Gunoo was in full possession of his senses, and was fully aware of all that was going on. The deposition of Gunoo and others was not completed till past 12 o'clock. Gunoo died at about 3 o'clock P. M., two hours and a half after. About half-past 5 o'clock I proceeded to hold a *post-mortem* examination, and I observed that externally the abdomen was swollen and tense, and that there were some abrasions of the skin around the anus, and the side of the anus itself was lacerated in two or three places, from which it appeared to me that something like a jagged stick had been thrust up

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opened the body; but Balabhow deposes that Dr. Pelly did so. This point is not of importance; but the Court has touched upon the discrepancy, because the prisoners in their defence have alluded to it. Dr. Pelly describes at length, and in detail, the appearance of the intestines, and of the orifice of the anus; and he gives his opinion that the injury to the intestines, which caused mortification, and the abrasions on the margin of the orifice of the anus, must have been caused by the violent insertion of, and thrusting up of a stick, cut and smooth at the top, and rough at the sides. This of course is conjecture; but, as coming from a medical man, it carries weight

his anus. The top of the stick must have been cut off. Upon opening the peritoneum, a quantity of fluid, mixed with fæces, escaped from the peritoneum; the transverse colon and the great omentum were highly inflamed; the ileum in different places, and for several inches, was mortified. There was laceration of the upper portion of the rectum for an inch or an inch and a half; the mucus membrane of the rectum was much thickened; the rectum remained entire. A considerable clot of blood was adhering to the upper third of the rectum, and there was gangrene of the whole of the upper portion of it. The same external and internal appearances might have manifested themselves from disease, but the orifice of the anus would not have been torn in a similar manner.

Answer to a Question from the whole of the Prisoners.—Leeches were applied to the stomach of Gunoo according to my orders, and the same day I gave him calomel and opium to assuage the pain, and reduce the inflammation, and he had rice conjee to drink. Calomel and opium are poisonous substances, and, if administered in too large quantities, would produce death.

Answer to Question by the Court.—I gave a certificate because I was asked to do so; I am not answerable for the reason of the certificate having been asked for.

Answer to Question by Prisoner.—The Native Doctor had given Gunoo a purgative before I ordered the fomentations and the leeches.

The prisoners do not put any more questions, and the witness withdraws.

The Evidence for the Prosecution continued.—S. M. Pelly, Esq. (witness No. 5) is recalled, and deposes on oath:—The bottle before the Court contains three portions of intestines, which were removed by

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with it; and in the opinion of the Court is corroborative of the statement of Gunoo, upon solemn affirmation, as to the nature of the ill-treatment he received, and the instrument used. The Bhungee witness (No. 9) deposes that he was called to the Foujdar's Kutchery to wash a prisoner's clothes; that he took a dhotur out of a prisoner's room, upon which there were five stains of blood, the size of the palm of a hand, which he could not wash out till he had rubbed them with earth. This is the whole amount of the evidence corroborative of the statement of Gunoo.

With regard to the eight witnesses (Luximon wulud Sunkrajee, Anajee wulud Sunkrajee, Gungaram wulud

me from the body of deceased Gunoo wulud Nagoo, who died in the Civil Hospital on the 13th day of August 1854, of enteritis.

Answer to Question by the Court.—I account for the rapid mortification of the intestines from the violent internal injuries he had apparently received. I was present when the deposition of Gunoo was first taken on solemn affirmation in the Civil Hospital, on the 13th August 1854, by the Acting Joint Magistrate, Mr. Turquand; and I then gave a certificate that Gunoo was at the time of sound mind, and perfectly able to understand what was going on about him; and I identify my signature, which is attached to the certificate. I was not present, to the best of my recollection, when the deposition was continued by Mr. Bell, the Assistant Superintendent of Police and Assistant Magistrate; but I was present when it was completed by Mr. Turquand, with whom I had gone away in the mean time to Luteeb prostitute's house. When the deposition was completed, it was read over to Gunoo, and he said it was true; and the deposition which has been now read over to me is the same.

Answer to Question by the first six Prisoners.—The intestines might mortify from disease in as short a time as in the case of Gunoo, but it is not usual for mortification to take place so rapidly from the administering of calomel or poison. The Hospital Assistant made the incision on the body of Gunoo in my presence. The Native Doctor did not insert a bougee into the orifice of the anus, but he inserted a metallic instrument called a sound, in order to ascertain if there was any rupture of the intestines. The sound was inserted after the *post-mortem* examination. Blood will flow from the piles. The orifice of the anus of deceased was closed as usual; there was not a hole in it.

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Gunojee, Rama wulud Tatia, Bapoo wulud Lobhajee, Luximon wulud Mhadoo, Krishna Kalia, and Luchmon wulud Ramsing) who gave evidence before the Police Amuldar, that they were present in the Wowra Alley, near Hurkoowur's house, when Gunoo was brought there in custody, and the ornaments found upon him, and he was afterwards taken through the door of Luteeb's garden by the first six prisoners, it is not clear how they came to give their evidence. The Police Amuldar says, in his deposition No. 14, he does not remember how and by whom they were all brought, nor did he keep any record; but it is to be conjectured, that as he was at the time acting for the Foujdar, and, as deposed to by him, he told his Peons to search for witnesses, that they, in the performance of his mandate, brought the witnesses to him. Of the five witnesses above named, four have been examined before the Sessions Court (Nos. 22 to 26), viz. Luximon, Anajee, Gungaram, Rama, and Bapoo. There is some discrepancy in their evidence, which, if weighed in the balance, might be found wanting; but the Court considers that the discrepancy is not of vital importance, and should not be allowed to render their evidence unworthy of credit; for the Court has cross-examined them, particularly Luximon (witness No. 22), very closely, and although he is not a man of good character, as shown by the extract from the Foujdar's record (vide No. 53), the Court is of opinion that he is to be believed; and his evidence received additional strength from the fact that he recognized the prisoner Bapoo when standing at the door of Luteeb's garden, with his face towards the alley, although he had been brought there by the Session Judge from the Jail by a bye-road without the cognizance of Luximon, and placed at the closed door with a Peon's belt upon him, and another man near him without a belt, who Luximon declared to be a Peon, although he had not a belt. Witnesses Gungaram (No. 24),

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Rama (No. 25), and Bapoo (No. 26) have also been punished at different times; but this is no good reason why they should falsely accuse the prisoners. The prisoners Wakojee (No. 1), Sudojee (No. 2), and Ramsing (No. 3), in their statements, say that when Gunoo was brought to the alley in custody, they were not there. Dhondee (prisoner No. 5) states he was not there at all,—that he was employed elsewhere; and Gutoo (prisoner No. 6) says that he was at home, engaged in household affairs. Bapoo says he came to the alley, and from thence, by order of the Foujdar, he took away Tukee woman to the Foujdar's Kutchery; and on his return from thence to where the Foujdar was, he by order of the Foujdar took a packet for the Doctor to the Foujdar's Kutchery, and gave it to the Karkoon, and there he remained. Bhowansing (prisoner No. 4) arrested Gunoo, and brought him to the alley, and he does not attempt to prove an *alibi*. But it is proved from the evidence of witnesses Nos. 12, 13, and 16 (Bhagee, wife of Baboorow, Ramrao Gungadhur, and Sydoo wulud Bala), and witnesses Nos. 22 to 26 aforenamed, and the Foujdar (witness No. 29), that Wakojee, Sudojee, and Ramsing were present from first to last; that prisoners Nos. 5 and 6 were there is proved from the evidence of witnesses Nos. 12 (Bhagee) and 22 to 26, and 29 (the Foujdar). Witnesses Nos. 22 to 26 also depose that Bapoo was there.

The evidence for the defence is as follows:—Witnesses Nos. 50 and 51 (Radhoo wulud Bapoo, and Baba wulud Ragho) depose, that on the day Gunoo was seized, Luximon (witness No. 22) was all day turning the tiles of Radhoo Shetia's house. Witness No. 43 (Bhowanee wulud Radhojee) deposes that Anajee (witness No. 23) was at home all day. Witnesses Nos. 41, 42, and 43 (Sukoo, wife of Anajee, Bala wulud Yesoo, and Bhowanee wulud Radhojee) depose that Anajee told them that

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the Mamlutdar had promised Rs. 50 to any one who would give evidence about the man who had killed the child, and that four witnesses had been procured in the Aditwara and Nowapoora divisions of the town, to give false evidence. The Court remarks that Sukoo (witness No. 41) was not called to give evidence before the Joint Magistrate ; and with respect to the other witnesses, it is not proved, and indeed it would be impossible to prove, who told Anajee that the Mamlutdar had offered such a bribe ; nor were the witnesses Nos. 43, 50, and 51, who state that Anajee was at home all day, called by the prisoners before the Joint Magistrate, to give evidence of this fact. They only said, when asked by the Joint Magistrate if they had any witnesses to call, that they would give their names before the Sessions Court. The Court remarks how easily such evidence might have been subsequently trumped up. The prisoners have further called two witnesses (Nos. 39 and 40), Luteeb, the owner of the cowshed, and her servant Nhunee, to prove that the door of the cowshed through which Gunoo was led is always closed, after the cattle have gone out to graze, till their return home in the evening from pasture.

Luteeb (witness No. 39) deposes that she was sick on the day in question, but that the door is locked every evening by Nhunee, and the key put by her in a recess of the room in front of the place where she sits ; and Nhunee (witness No. 40) deposes that she locked the door on the day in question. But the Court remarks, with regard to their evidence, that it is most improbable that they should take the trouble of locking the door except at night-time, seeing that the cowshed is in a garden, in and out of which work-people and others must be going all day ; and further, the Court does not place any reliance upon the word of prostitutes, who have not any sense of shame ; and it is not improbable

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that the young girl Nhunee may prostitute herself daily to one or more of the prisoners; and the witness Luteeb is her keeper. Taking the evidence of the prisoners in the aggregate, the Court considers it is of no value, as tending to exculpate them.

The prisoners have further brought witnesses to try and prove that Gunoo was suffering from piles, and thus to account for the appearance of his anus, and the state of his intestines; but Dr. Pelly, in answer to question by prisoners, deposes that the intestines might present an appearance similar to those of Gunoo, which he preserved in a bottle, and which were in evidence before the Court; but that the abrasions upon the margin of his anus could not have been caused by disease; and the piles are a disease.

In the first paragraph of their defence, prisoners Nos. 1 to 6 set up, that when Gunoo was brought to the Foujdar, he confessed the murder, as will appear from the evidence of other witnesses who have been called by the Court (Nos. 45 to 48); but the Court does not consider their evidence can be allowed to outweigh that of the five witnesses who describe what was done to Gunoo, and where he was taken, and from whence brought. In the 2nd paragraph they say, that if Gunoo had been beaten and ill-treated, he would most certainly have mentioned it; and that he could not, after the ill-treatment he is said to have suffered, have walked alone to the well; and that Mr. Bell, Assistant Superintendent of Police, in his deposition No. 27, deposes that when he saw Gunoo at the well, he did not complain of having been ill-treated, and that he was in good spirits, and did not look in pain; and that therefore Gunoo must have been persuaded through enmity to say he had been ill-treated. With regard to this part of the defence, the Court remarks that Gunoo may have thought it useless to complain, as he had confessed the crime, and could not bring

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witnessess to prove the ill-treatment; further, he might not have felt pain, as the parts might have been immediately numbed, or severe pain would not ensue till the intestines began to mortify; or if he did suffer pain, it might have been drowned or merged in his fear on account of the crime he had committed, and his dread of the punishment which would follow.

The objections raised in the 3rd paragraph are futile, as it is clearly proved by the evidence of several witnesses that he walked to the well, and there his confession was taken when he was in full possession of his senses; and the Bhungee Imam (witness No. 9) deposes that he the next day washed blood from his dhotur; and the Doctor deposes that it does not follow that blood should immediately flow from his stomach; and as the crowd who followed him to the well could not have supposed that he had been ill-treated in the way described, it is not likely they would have troubled themselves to look for the blood upon the body or clothes of Gunoo. The Doctor was the best judge of what remedies to apply for the reduction of the pain and tenseness of Gunoo's abdomen, and it is absurd to suppose he would give him medicine of a poisonous nature in such quantities as to have injured his health; therefore the objections made in the 5th paragraph go for nothing.

If the evidence of the two Members of the Inquest examined by the Court (witnesses Nos. 2 and 3) with regard to the appearance of Gunoo's intestines would be of no value; but the Civil Surgeon himself having been examined in this case, he must have been the first informed with regard to the injury done to Gunoo's intestines, and the probable cause of it; and the Court places full reliance upon his evidence, and allows it to have great weight in leading the Court to a right conclusion as to the cause of Gunoo's death. It is absurd to suppose that the injuries done to Gunoo's intestines and

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anus could have been caused by the knife of an inexperienced hand: either Dr. Pelly or Balabhow made the incision; and if the latter, Dr. Pelly was there, and superintended the *post-mortem* examination. The similarity commented upon at the close of the paragraph between the Doctor's and Gunoo's depositions with regard to the kind of stick made use of, and the inability of Dr. Pelly to advance his reasons for supposing that such a stick was made use of, is unworthy of notice.

With regard to the nature of the evidence of the witnesses, the manner in which it was obtained, and the little credit to be given it on that account, the Court has before adverted to it; and therefore it does not think proper again to comment upon the objections raised in the 9th paragraph. There is not any evidence to prove that the witnesses were ill-treated, that threats or promises were held out to them, or that their evidence was in any way suborned; and the Court considers that the Mamlutdar was at liberty to take their deposition at the top of his Kutchery, and that he was not to be blamed for so doing. For the same reasons, it is not necessary for the Court to waste time in showing the emptiness of the clamour raised against the evidence of the witnesses in section 10. In section 2 they request the Court to take the evidence of Anajee's wife that he was laid up at the time with a guinea-worm. The Court has taken her deposition (No. 41). She says that Anajee had a guinea-worm from the month of Ashad, and was laid up for fifteen days. After that he was walking about. With regard to the report that the Mamlutdar had offered Rs. 50 to any people who would give evidence in this case, the Court has before shown that it is not worthy of notice.

In the 12th section they say that Gungaram Wunjaree and Rama Nhavee are men of bad character, and the Joint Magistrate did not place any trust in their evidence;

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that their evidence does not tally; and that a person cannot see from the place from which they say they saw: but the Court, having had doubts whether it would be possible for a person standing upon the mound near the butcher's house, marked No. 1 in the plan, went there for the first time on the 13th instant, without the knowledge of the Session Judge. Two Peons belonging to the Adawlut—one a Havildar on his own establishment, and another a Peon in the Adawlut employed in the Sheristedar's Office, who the Session Judge has been in the habit of seeing daily for the last five or six years—were placed at the closed door of Luteeb's garden, without their belts. The Session Judge knew the Peon who was standing on the right hand of the door from his general appearance, but he could not see his features; he did not recognize the Havildar. And afterwards the evidence for the prosecution was closed. Bapoo (prisoner No. 7) was brought and placed at the door, as before described, and Luximon (witness No. 22) knew him, and said his name was Bapoo; but it was impossible for him to see his features at that distance, and, therefore, to know him from the pock-marks on his face, and the blindness of one of his eyes; but as he knew him very well, and used constantly to see him, he recognized him from his figure and general appearance; and how could it have entered into his head that the Session Judge would have him brought and placed there, when at the time he (Luximon) knew him to be a prisoner in the Jail.

The Court has recorded its reason for disbelieving the evidence of the witnesses called by Bapoo (prisoner No. 7), upon which he lays stress in section 13, whose depositions have been taken by the Court.

It is not probable that the prisoners Nos. 1 to 6, when they took Gunoo to the cowshed, contemplated depriving him of life: it may be said—why, if the ornaments of the deceased child were found upon him, should they have

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proceeded to ill-treat him ? To this I would answer, although the ornaments were found upon him, he denied that he knew where the girl was, and asserted that the ornaments had been thrown upon him ; and therefore, the object of Wakojee Patel and other prisoners, in taking him to the cowshed, must have been to make him confess that he had murdered or made away with the child, and to show where the body was ; and if the prisoners were all present, as Gunoo, in his deposition taken on the day of his death, says they were, when the stick was thrust up his anus, they are all equally guilty in the eye of the law ; and although it has not been fully proved that an umbrella handle was made use of, as charged, yet, from the evidence of Gunoo, who must have felt whether it was a stick, or an iron, or metal instrument of any kind, and the evidence of the Civil Surgeon, showing that from the appearance of the abrasions of the sides of the anus, and the injury done to the intestines, the Court does not consider that the distinction between a stick and an umbrella handle, as charged, they being *ejusdem generis*, ought to be allowed to weigh with the Court in arriving at a verdict of guilty upon the indictment as charged. If the prisoners cannot prove an *alibi*, and there was not any earthly reason for the prisoners Nos. 1 to 6 taking him to the cowshed, except to extort a confession from him by violent means, it would seem that it was a premeditated act ; and although there were not any eye-witnesses of the crime committed, yet from the evidence recorded, and commented upon by the Court, taken together with the deposition of Gunoo, from first to last accusing the prisoners Nos. 1 to 6, and who it is not probable would, when he was *in extremis*, have through enmity persisted in saying that they were the perpetrators of the deed, the Court is of opinion there is a violent presumption, amounting to positive proof, that the prisoners Nos. 1 to 6 (Wakojee, Sudojee, Ramsing, Bhowansing,

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Dhondee, and Gutoo) did thrust a stick up the anus of Gunoo ; but the Court does not find them guilty of murder, but of the lesser crime of culpable homicide ; in having, between 4 and 5 P. M. of Thursday, the 10th August 1854, (corresponding with the 2nd Shrawun Wud, Shuké 1776,) in the city of Nassick, Sub-division Nassick, Zillah Ahmednuggur, taken a prisoner (Gunoo wulud Nagoo), aged about nineteen years (accused of having that same day murdered a child named Syee, aged about five years, the daughter of Bhow Datia, for the sake of its ornaments), to the cowshed of Luteeb, prostitute, and there beaten him, and forced the handle of a Native umbrella up his anus, to make him confess himself the murderer of the said child, from the effects of which torture he (Gunoo) died on the fourth day afterwards, viz. the 13th August 1854 ; and the Court passes the following sentence, under the provisions of Section XXVII. Regulation XIV. A. D. 1827 :—

That you, prisoner No. 1 (Wakojee wulud Ramjee), No. 2 (Sudojee *alias* Ramjee), No. 3 (Ramsing wulud Shamsing), No. 4 (Bhowansing wulud Nuthsing), No. 5 (Dhondee wulud Ryajee), and No. 6 (Gutoo wulud Bhewjee), be each imprisoned in a Criminal Jail for four (4) years and two (2) months, four (4) years with hard labour, and two (2) months in solitary confinement, the first month at the close of the first year, and the second month at the close of the second year of your confinement, with conjee diet for the first seven (7) and the last seven (7) days of each month.

The Court is of opinion that the guilt of Bapoo (prisoner No. 7) has been fully established by the evidence recorded of those witnesses who saw him go with the other six prisoners to the door of Luteeb's garden with Gunoo, and there saw him standing sentry outside the door till the other six prisoners came out again, and that by this he aided in the perpetration of the crime of

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culpable homicide; but as he was not an eye-witness of, and present looking on, or giving assistance to the other six prisoners in ill-treating Gunoo, the Court passes a more lenient sentence upon him than upon the other six prisoners. The sentence of the Court is that you, Bapoo wulud Hybutrao, having been convicted of aiding in the commission of the aforesaid crime, so far as that you stood at the time and place above alluded to outside of the said cowshed, to prevent anybody coming there, be, under the provisions of the aforesaid Regulation, Sections, and Clause, imprisoned in a Criminal Jail for the period of two (2) years and two (2) months, viz. two (2) years with hard labour, and two (2) months in solitary confinement, the first month at the close of the first, and the second month at the close of the second year of your imprisonment, the first and the last seven (7) days of each month with conjee diet.

* * * * * *

In this case 119 witnesses were sent up by the Acting Joint Magistrate, and the Sessions Court has taken the evidence of 36. Of these, the evidence of the remaining 83 witnesses the Court has altogether rejected as useless, several of them being wholly unacquainted with the matter before the Court, others speaking from hearsay, and the evidence of the remainder being quite foreign to the subject which forms the charge against the prisoners; and the Court extremely regrets that the Government should have been put to so much expense for "batta," the people themselves to so much trouble and annoyance, and the time of the Joint Magistrate needlessly occupied in recording so much that is not evidence. The Joint Magistrate, in his remarks at the close of his proceedings, records:—"The Mamlutdar I think anything but shines in this case, and appears, so far as he had anything to do with its preparation, to have made a mess of it." &c. &c.

With regard to the conduct of the Foujdar, the Acting

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Joint Magistrate remarks :—" At the same time I must admit the Foujdar guilty of grave errors of omission and commission," &c. The Court therefore considered it necessary to take the evidence of these two functionaries. It appears that the prisoner Gunoo had taken the child Syee out of the city, which is under the charge of the Foujdar, after having taken off its ornaments, and then thrown it into a well, where the corpse was found dead floating, upon the Tanklee road, within the Nassick Talooka, thus taking the case out of the jurisdiction of the Foujdar. The murder having been committed within the Mamlutdar's charge, the inquiry should have been made by the Mamlutdar; whereas it was conducted by the Foujdar. It appears, that whilst the statement of deceased Gunoo was being taken down by the Foujdar at the well, and the Inquest being held upon the body of deceased Syee, that the Mamlutdar arrived at the well, and he then became aware for the first time that the murder had been committed within his jurisdiction; when he should at once have taken the case out of the hands of the Foujdar, and not have allowed him to carry away the prisoner to his Kutchery, and there to keep charge of him. With regard to the conduct of the Foujdar, the Court remarks as follows :—In his deposition he states that the child was missed from the city, and that he therefore instituted a search for her within the city; and when the prisoner Gunoo was apprehended upon suspicion of having taken away the child, and the ornaments were found upon him, he admitted that he had done so, and that he had thrown the child into a well; that he, the Foujdar, sent Gunoo forward to the well, and that he afterwards followed with Mr. Bell, the Assistant Superintendent of Police; and that when he got to the well, as the Police Amuldar was not there, he, the Foujdar, conducted the inquiry; and that when the Mamlutdar arrived, he did not ask to have the prisoner made over to him, therefore he took Gunoo

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in charge; and as the first inquiry had been made, he conducted it to a close. With regard to this explanation, the Court has not the slightest doubt that the the Foujdar did lose sight of the prisoner Gunoo immediately after he was apprehended, and before he confessed to the crime ; and it was then, at the time he is said to have been sitting at the Tambolee's shop, that Gunoo was taken away by the prisoners at the bar, and the crime committed with which they stand charged ; and after Gunoo had confessed to the murder, and agreed to point out the well, the Foujdar should have himself accompanied him there, and not have waited to go with Mr. Bell ; and when he found that the murder had been committed within the Mamlutdar's jurisdiction, he should, without waiting to be asked by that Officer to give him charge of Gunoo, at once have made him over, and reported to the Joint Magistrate that he had done so ; and if the Mamlutdar had then neglected to do his duty in taking charge of the prisoner, and following up the inquiry, he would have rendered himself liable to punishment ; and if he had taken charge of Gunoo, and completed the inquiry as he should have done, the whole affair would have been much more easy than it has been. Seeing that the prisoners were Policemen under the orders of the Foujdar, therefore people did not come forward so willingly to give evidence against them as they would probably have done had the Mamlutdar had charge of the prisoner ; and Gunoo being in confinement in the Foujdar's Kutchery, and the men who had tortured being Policemen under the authority of the Foujdar, he (Gunoo) must have felt a fear in accusing them to the Foujdar ; and it would not have been necessary for the Joint Magistrate to have sent the Foujdar to Bombay to get him out of the way, and to have made over his duties to the Mamlutdar. It appears to the Court that both Officers were thus placed in a

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very false position ; and if the Joint Magistrate is of opinion that their conduct was blameworthy, he should visit them in some way for their offences,—more particularly as the Mamlutdar, having completed the inquiry, reported to the Acting Joint Magistrate, on the 27th September 1854, that the Foujdar and his people were concerned in the case ; and the Foujdar's answer to this is dated the 18th November last, in which he says that he and the Mamlutdar have an old feud. As this matter has not yet been cleared up, the papers are ordered to be returned to the Acting Joint Magistrate. The Court is of opinion that a proclamation should again be issued, and notice given by beat of drum, throughout the Sub-Collectorate, warning all people not to deck their young children with ornaments ; thus inviting the cupidity of such men as Gunoo, and leading to such frightful crimes. Three witnesses (Krishna wulud Luximon, Luximon wulud Mhadoo, and Luchmonsing wulud Ramsing) first stated before the Mamlutdar, and afterwards deposed on solemn affirmation before the Assistant Magistrate, Dr. Pelly, and again denied before the Acting Joint Magistrate, on solemn affirmation ; therefore the Sessions Court has deemed it right to send these depositions to the Acting Joint Magistrate, for such measures as he may think fit to adopt. In making these remarks, the Court would at the same time record its sense of the great labour bestowed by the Acting Joint Magistrate in the preparation of the case in general, and particularly of the manner in which he has sifted the evidence of the witnesses Luximon wulud Sunkra, Gungaram wulud Gunoojee, Rama wulud Tatia Nhavee, Bapoo wulud Lobhajee, Krishna wulud Luximon, Luximon wulud Mhadoo, Anajee wulud Sunkrajee, and Luchmon wulud Ramsing, the great anxiety evidently shown by him to bring the perpetrators of the deed to justice, and to secure their conviction.

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With regard to the evidence of the Native Hospital Assistant Balabhow (witness No. 6), the Court remarks that his conduct was reprehensible in the following respects:—He got intelligence from Trimbuk Duffedar and Sudojee Naique, about 4 o'clock on the morning of 11th August last, that a prisoner in the Foujdar's Kutchery had a pain in his belly; and instead of going at once to see him, he delayed to do so till 7 o'clock, by which time the man, if he had cholera, might have been dead. Though the prisoner Gunoo was in very great pain, and in some danger, he did not send him to the Hospital till the morning of the third day.

Ordered that an extract from these proceedings be sent to the Civil Surgeon, for such notice as he may think proper.

Minute recorded by Mr. A. Remington.—On Thursday, the 10th August last, a young girl named Syee was missing from her home, and Gunoo wulud Nagoo being also absent, a search was made after both, and on the latter being discovered, he was taken to the Police. Gunoo denied all knowledge of the missing girl; but in consequence of the great suspicion attaching to him, his person was searched, and some ornaments, concealed in the folds of his turban, were found, which the relatives of Syee identified and claimed as belonging to her. Gunoo still declared he knew nothing of the girl, and charged the Police with thrusting the ornaments upon him, with a malicious intent, and for the purpose of bringing him into trouble. In consequence of this denial, in spite of the suspicious appearances against him, the Foujdar, according to the evidence, suggested that "the accused should be taken aside and spoken to"; and as the villagers were crowding around, Gunoo was taken off to some premises occupied by one Luteeb woman, where, after a time, a confession was obtained, and the parties then proceeded outside the village to a well,

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indicated by the accused, where the body of Syee was found floating on the water. The confession of Gunoo was taken down on the spot, and he was afterwards transferred to the Chowkee, under charge of the Foujdar of Nassick.

In the course of the night, Gunoo complained of pain in the stomach, and the Native Doctor was sent for; but he refused to come till the morning, when he visited and prescribed for the prisoner. The disease not yielding to the remedies applied, the patient was removed to the Hospital on Saturday, when Dr. Pelly saw him for the first time, and to him he complained of having "been kicked and beaten by the Police." On the following day, Sunday, he added that the Police had submitted him to torture, and had actually thrust the handle of an umbrella up his anus; and on Monday morning early he expired. A *post-mortem* examination of the body being made, the Medical Officer found the sides of the anus lacerated in two or three places, and the appearance of the injury was as though a jagged stick had been employed in the manner described by the dying man.

As soon as Dr. Pelly was apprised of the charge thus distinctly made against the Police, and the state of the patient becoming imminent, he sent information to the Magisterial Authorities, and the deposition of Gunoo was committed to writing. In it he set forth that the prisoners, having conveyed him to the cowshed adjoining Luteeb's house, laid him on the ground, with his face on the floor, and thrust the handle of an umbrella two or three times up his anus. He added that he was beaten by the villagers as well as by the Police.

This maltreatment was spoken to only by himself; but several witnesses deposed to his having been taken aside to Luteeb's house, and after the lapse of ten minutes according to one witness, and half an hour as deposed to by another, the whole party emerged from the pre-

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mises, the accused Gunoo exhibiting signs of distress, his head reclining on a Policeman's shoulder, and his hands clasped on his stomach,—the seat, as he said, of the pain he was enduring. In that condition he was conveyed to the well,—in that condition he made his confession ; and he was then removed to the Chowkee, still in a state of suffering.

It seems particularly deserving of remark, that when the Native Doctor Bala *first* saw Gunoo, he asked him whether he had been ill-treated, and he declared he *had not ;* and to Dr. Pelly his first statement was that he had been " kicked and beaten only" ; and he accused, in his deposition, the villagers of having participated in the violence exercised towards him. His former employer Pandoo (witness No. 15), who aided the Police in their search for him, deposed that he was present at the well, and walked back from it with Gunoo, and that the latter comported himself like a man in health. The distance of the well from the town was, according to the Superintendent of Police, three quarters of a koss, or a mile and a half, if the koss in that part of the country is a short one. Mr. Bell, too, deposed that Gunoo looked well, and did not complain ; that he stood from first to last ; that he did not put his hands on his stomach, nor appear to be labouring under pain during the whole time witness was present, which lasted, he deposed, from a quarter to half an hour.

Assuming Mr. Bell to be quite correct in his recollection (and I can see no reason to discredit his testimony), it appears incomprehensible how Gunoo, after undergoing such treatment as he described, should nevertheless be able to walk three miles, and stand for so long a time, without exhibiting any signs of pain or distress. It was the particular duty, therefore, of the Sessions Court to have cleared up all doubt on that point, by questioning the Medical Officer very minutely in regard to it ; but

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instead of that, the Judge advanced a theory of his own, and held what can only be called a conjecture, and a very improbable one too, to be conclusive—" that Gunoo might not have felt pain, or the part might have immediately be numbed, or severe pain would not ensue till the intestines began to mortify ; or if he did suffer pain, it might have been drowned or merged in his fear on account of the crime he had committed, and his dread of the punishment which would follow."

The Court cannot, I think, accept the unprofessional and unsupported opinion of Mr. Woodcock to account for the absence of pain, or Gunoo's Spartan endurance of it ; but assuming the Judge to be correct, and that this is a proper mode of accounting for it, Mr. Bell must consequently be credited, when he says that Gunoo walked as usual, and the other witness disbelieved, that he hung down his head, and exhibited the greatest distress. It is very certain that both witnesses cannot be correct, and the discrepancy between them is most startling ; but according to the hypothesis of the Session Judge, the presumption is in favour of Mr. Bell, whose attention, it may be noticed, had been specially directed to Gunoo, as evinced by his desiring his cords to be loosened.

The prisoners deny their guilt, and rest their defence principally upon the fact that Gunoo at the time was labouring under the disease of the piles. Evidence, both for the prosecution and defence, showed that deceased was afflicted with that complaint. Bhagee (witness No. 12), and aunt of the murdered girl, informed the Court, that a month before Gunoo was taken into custody, he complained of a pain in his stomach, so that he could not eat ; and his former master Pandoo confirmed that statement ; and both witnesses deposed that his complaint was the piles.

Not a single question, however, was asked of Dr. Pelly, upon a point so essential to the elucidation of the

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cause of death ; and notwithstanding that the Civil Surgeon had deposed that "the same external and internal appearances which the *post-mortem* examination disclosed might have manifested themselves from disease," the attention of the witness was not directed to the particular malady under which Gunoo, by the concurrent evidence of credible witnesses, had been suffering. The Medical Officer certainly said that "the orifice of the anus would not have been torn in the manner it was found to be" ; but that was not in itself sufficient, as it ought to have been ascertained on his authority—first, whether there were any traces of such a disease as piles ; and if so, whether the complaint was of long standing, the Native remedies applied to persons so afflicted, and particularly whether country practitioners are accustomed to insert instruments as a means of rendering relief.

The Sessions Court was bound to be certain of the cause of death ; but as the record stands, the medical evidence is somewhat at variance in that : while Dr. Pelly deposed that "the rectum remained entire," the Native Assistant described the part as having been "lacerated, and the orifice of the anus was not as usual, but extended" ; whereas the Civil Surgeon stated that it was "closed," meaning, I presume, that it was in its natural state in that respect. Then, as regards the deposition of Gunoo, it may be observed that no attesting witness deposed that he was present, and heard the deposition given, and saw it taken down ; that he then heard what was taken down read over to deponent ; that it was the same as had been dictated ; and that he acknowledged and signed it in the witness' presence. Dr. Pelly was only by a portion of the time, and his evidence, consequently, fails to prove these particulars. And if the testimony of the witnesses who depose to the prisoners having taken Gunoo to Luteeb's, and his lamentable appearance when brought therefrom,

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be set aside, as being contradicted by other evidence more worthy of credit (and the witnesses seem to have been tempted by the hope of reward to come forward), and if the story told by Shaik Imam (witness No. 17), of his finding the brothers Luximon and Anajee (witnesses Nos. 22 and 23), be rejected as improbable ; and, above all, if the medical evidence be considered to have failed to establish with certainty the cause of death, which ought to be cleared up before the prisoners can be convicted, but which still remains in doubt, I think the charge must be held deficient in proof, and the prisoners should be acquitted.

The evidence, if believed in, would have warranted a verdict of wilful murder, which the Session Judge should have recorded, under the view he took of it.

Minute recorded by Mr. M. Larken.—It is to be regretted that more minute observations were not recorded by the Civil Surgeon upon his examination of the deceased. The omissions have given occasion to the defence to impugn his testimony ; and though the objections are exaggerated, as the defence contests, the cause of death being truly the point on which the case must stand or fall, it was of the greatest consequence that, in so peculiar and important a trial, the medical testimony should not have left room for cavil.

The Civil Surgeon should have explained his observation that disease might produce laceration ; what he meant by saying the sound was introduced after the *post-mortem* examination,—the object stated being to ascertain whether the intestine was lacerated ; what he meant by saying the rectum was entire, having said in the preceding sentence that it was lacerated and gangrenous. He does not depose whether the laceration was such as could have been produced by the sound on the mortified intestine, or whether it must have been produced during life.

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He does not say whether the laceration extended into the cavity of the peritoneum; or whether the adhering clot of blood was within the peritoneum, or within the cellular tissue outside the rectum, or within the rectum. In the case of disease, I believe, it would have been within the rectum.

I think, too, he should have been asked to explain why he considered that the top of the stick was cut off.

There is, however, sufficient medical evidence to show that the symptoms ensued as they would have done from such an injury as the one deposed to; and, upon the whole, I find no reason to question the correctness of the conclusion that such an injury caused the death of the deceased.

In respect to the complicity of the first six prisoners: though the evidence for the prosecution (Nos. 20 to 26) is open to much of the exception taken by the defence, and though the witnesses may have dressed up their narrative,—saying, for instance, that the deceased was pressing his hands on his stomach,—when we find that the Superintendent of Police saw that his arms were so tightly pinioned that he ordered the ligature to be relaxed, I consider that these six prisoners are guilty, and should have been convicted of murder. The petitioner Bapoo wulud Hybutrao has been convicted of aiding in the culpable homicide of which the other six prisoners were found guilty. It is not proved that he accompanied them to Luteeb's garden door with any criminal intention, or that he remained outside with the object of preventing interference with the perpetration of the outrage going on within;—there is nothing to indicate participation in the crime, and his conviction and sentence should be annulled. It is probable that the Government will call upon the Court for its proceedings in this case; but whether or not, I think the opportunity should be taken of suggesting that one of the subjects

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for examination of candidates for their Medical Service under the new system should be medical jurisprudence, and that a thorough acquaintance with that science should be exacted as an indispensable qualification.

Minute recorded by Mr. W. H. Harrison.—On full consideration of the evidence recorded in this case, I do not find reason to differ with the Session Judge's conclusion, that the prisoners Nos. 1 to 6 committed the act of torture charged upon the deceased Gunoo, thereby causing his death. The deceased accused them when dying, and there is strong corroboration of the truth of his accusation in the medical evidence as to his suffering, and the appearances that his body presented, as well as the washing of his blood-stained cloth on the morning after the occurrence, and the other circumstances of the case as they have been deposed to at the trial.

The defence set up is that the witnesses Nos. 22 to 26, who deposed to seeing the deceased led away by the prisoners to the place where the torture was inflicted, are not to be credited ; and that Gunoo was suffering from piles, which, aggravated by the medical treatment he received, caused his death. I do not find that the grounds adduced for discrediting these witnesses are valid. It was to be expected in such a matter that witnesses would be slow to come forward ; and if the main facts they deposed to were untrue, it would not have been difficult to show this by counter testimony,—the attempt to do so failed.

If the deceased had been suffering from piles, as some of the witnesses more or less confidently assert they heard was the case, the fact could have been readily proved by medical testimony. The Civil Surgeon's deposition goes to show that some, but not all the appearances on the body, might have been caused by disease. His words are—" the same external and internal appearances *might* have manifested themselves from

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disease, but the orifice of the anus would not have been torn in a similar manner." Although it rested with the accused to examine further on the point, I regret, as it was raised, that the Session Judge did not himself question Dr. Pelly more directly upon it.

Supposing it, however, to be granted that the deceased was a sufferer from piles: while it must be presumed that such a disease would both aggravate the effects of the alleged torture, and be itself aggravated thereby, grounds are altogether wanting for the assumption that this disease was the cause of Gunoo's death.

It has been relied upon in behalf of the prisoners, that Gunoo, after suffering the torture, walked to the well outside the town, a distance of three quarters of a koss, where his confession was formally made, and the body of the child he had murdered was discovered, and returned again without indications of suffering,—which is violently improbable. Lieutenant Bell and others depose that at the well he did not exhibit signs of distress. The Superintendent of Police was only there, however, for a quarter or half an hour; and he himself ordered his hands to he loosed: why was this, if the man was perfectly at his ease? He cannot say positively whether Gunoo was standing or sitting. The Civil Surgeon states that external hæmorrhage would not necessarily be the immediate result of such an act as that ascribed to the prisoners.

Although, therefore, this point is not satisfactorily cleared up, as it ought to have been, by questioning the medical witnesses upon it, I do not find it proved that Gunoo did go to the well and back *without* distress; nor do I consider the improbability of his having gone under the circumstances such as to shake the conviction that other grave facts against the prisoners produce in regard to their guilt.

The Session Judge has not recorded any reasons for finding the prisoners guilty of culpable homicide, instead

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of murder, as charged; and the sentence does not appear to me to mark adequately the guilt established.

The conviction of prisoner No. 7 will not, in my opinion, hold good. It is not suggested that he was present at the torturing, or that he did more than stand outside a door, within which Gunoo was taken by the others. I cannot on this hold him guilty of aiding in culpable homicide, and his sentence should be annulled. I would reject the appeals of the other prisoners.

The Foujdar of Nassick occupies a prominent position in this case; and I regret to say that, relying upon the testimony given against the prisoners, it seems to me impossible to acquit him of a grave share of culpability. It is difficult to believe, if this Officer ordered the deceased Gunoo to be taken aside, and out of his sight, to be put to the question, that he did not know or contemplate the sort of question that was to be applied to him. It is not fitting the subordinate and active agents in such a crime should be punished, while their superior is held blameless, because he took care to keep out of sight himself of the outrage perpetrated. The deceased was a prisoner in his hands. I should hold the Foujdar responsible for the treatment he received, and would bring his conduct to the particular notice of Government, in laying these proceedings before them.

In respect to the mode in which this case was taken up and investigated, it appears to me that the zealous exertions of the Joint Magistrate, Mr. Turquand, in promotion of the interests of justice, merit the Court's commendation.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence of the prisoner Bapoo wulud Hybutrao are annulled, and he is to be discharged, there being nothing to show that he counselled, assisted, or interfered in the commission of the offence of which the other prisoners were convicted.

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The petition of the other six prisoners is rejected.

While the Court find, on the proceedings submitted, reason to commend the late Joint Magistrare, Mr. Turquand, for the diligent prosecution of the inquiry which led to the trial, they must express their disappointment at finding the facts of the case imperfectly investigated by the Session Judge.

It was his duty to have put beyond any question the cause of Gunoo's death, before proceeding with the evidence which was to fix the assault upon the prisoners. But the medical testimony was recorded replete with confusion, and essential omissions are apparent; and had there not been manifest to the Sudder Court other evidence sufficient to corroborate Gunoo's story, and so to establish the cause of death, and to connect it with the acts of the prisoners, the conviction could not have been upheld.

In respect to the evidence for the defence, the Session Judge records extraordinary reasons for refusing credence to much of it. For instance, he rejects the evidence of Luteeb and Nhunee because they are prostitutes, and because one of them possibly prostituted herself to the prisoners every day,—an assumption which there is no trace of evidence to justify.

Even when, in the course of the evidence for the prosecution, anything was elicited in favour of the prisoners, it received little consideration; and however exaggerated the prisoners' defence may be, the treatment of the case by the Session Judge had the effect of strengthening their hands.

The Court cannot withhold their opinion that proper attention was not paid to the deceased Gunoo by the Medical Officers, and the parties who had him in custody: it is impossible to believe that the symptoms of his wretched condition ought not earlier to have called for medical treatment. He was a weakly lad, over-fatigued,

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and agitated, and suffering from the events of the day of his apprehension; and however criminal he may have been, his state must have required those offices of humanity which it is clear it did not obtain till too late.

The Court consider that the proceedings in this case should be laid before Government, with the object of drawing their attention to the conduct of the Nassick Native Police of all grades who are connected with this inquiry, and also to solicit their attention to the necessity for their Medical Officers being proficient in the science of medical jurisprudence; with the hope of the Court that this study may be a stringent test for the examination of candidates for the Medical Service.

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SURAT.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 7 of the Calendar of the Surat Sessions Court for 1855. Committed by Mr. J. R. MORGAN, First Assistant Magistrate, on the 21st February 1855. Tried by Mr. H. HEBBERT, Acting Session Judge, on the 26th February 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Murder.

Prisoners.—No. 1, Mukunio Goslo, Kolee, aged 35.
2, Bhanio Pitio, Kolee, aged 24.

Charge.—Murder; in having, on the night of Friday, Magh Shood 9th, Sumvut 1911, (corresponding with the 26th January 1855,) within the bounds of the village of Bighree, Purgunna Bulsar, Zillah Surat, struck Runchorio Ruvia, of the abovenamed village, prisoner No. 1 with a 'dhario' (or bamboo with an iron crook) on the head, cutting it open, and making a severe wound; and prisoner No. 2 with a stick on the left arm, thereby breaking it; from the effects of which wounds the said Runchorio Ruvia died on the night of Friday, Magh Wud 7th, Sumvut 1911 (corresponding with the 9th of February 1855).

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Murder.

The prisoners plead not guilty.

Finding and Sentence by the Acting Session Judge.—From the evidence adduced in this case, it would appear the deceased, with his son and his servant (witnesses Nos. 6 and 7), had been cutting some date trees, and afterwards were returning home, when, on their way, words arose between the deceased and the prisoners at the bar, whom they fell in with on the confines of the fields of the deceased and the prisoner Mukunio (No. 1), regarding a low date tree growing in the hedge dividing those fields, and concerning the ownership of which there had been a dispute of some standing between them. From words the prisoners proceeded to blows, Mukunio (prisoner No. 1) striking deceased on the head with a dhario or crook, and Bhanio (prisoner No. 2) striking him on the left arm. The blow first mentioned inflicted a severe wound, and the last broke deceased's arm. From the injuries thus received, deceased died within a fortnight.

The prisoners admit they had words with the deceased on the evening in question, but deny they assaulted him. The Court, however, considers the evidence against them on this point conclusive. Their assertion that deceased may have fallen off a tree, and so fractured his head and arm, is, under the circumstances, incredible, besides being entirely unsupported; still, in judging of the act, intention, and cause, the Court is of opinion the prisoners' offence does not amount to murder. There is no apparent reason for considering it in any way premeditated, or committed of malice aforethought.

The Court therefore acquits the prisoners of murder, but convicts them both of culpable homicide; in having caused the deceased Runchorio Ruvia's death, as recited in the charge against them.

The Court passes on the prisoners the following sentence:—

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That you, Mukunio Goslo, and Bhanio Pitio, be each imprisoned for a period of (5) five years, with hard labour, under Regulation XIV. of 1827, Section XXVII.

* * * * * *

The case would have been more complete had the First Assistant Magistrate sent up the Peon who found the bamboo sticks before the Court; but it has not been deemed necessary to summon him, and adjourn further proceedings till his arrival.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoners is rejected.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

AHMEDNUGGUR.

[Case No. 7 of the Calendar of the Ahmednuggur Sessions Court for 1855. Committed by Mr. A. R. GRANT, First Assistant Magistrate, on the 3rd January 1855. Tried by the Honorable G. A. HOBART, Acting Assistant Session Judge, on the 10th February 1855. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Misconduct as a Police Officer.

Prisoner.—Doorga wulud Huba, Ramosee, aged 25.

Charge.—Misconduct as a Police Officer (Regulation XII. Section VIII. Clause 1st); in having, at Sangnee Soorya, in the Kurda Talooka of the Ahmednuggur Zillah, on the 12th December 1854, (corresponding with the 7th Margsheersh Wud, Shuké 1776,) received a present of Rs. 9 from one Vishnoo Sowharam, inhabitant of Jowla, as an inducement to liberate the said Vishnoo Sowharam from the custody and surveillance of the party of Sepoys to which the prisoner belonged.

Finding and Sentence by the Acting Assistant Session Judge.—The prisoner is charged with misconduct as a Police Officer, in taking a bribe. He pleads not guilty.

This is a case in which a person, having been in the custody of the Police on suspicion of robbery, complains

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that those under whose surveillance he was placed extorted money from him, and which he gave from fear of ill-treatment, and to obtain his liberty.

It is not improbable that such complaints may be merely acts of retaliation, and accusations of this nature must be looked upon with some suspicion.

The complainant deposes (vide No. 2), that after being apprehended by the Police Amuldar of Jowla, he was given into the custody of a Naique of Police (the prisoner), and other Police Sepoys; that the Naique allowed him to remain at liberty in the village of Sangnee, to which he had at first been taken after apprehension, only requiring him to report himself to them every day, to satisfy them that he had not left the village. After this the Naique, and a Sepoy named Bhaoo, several times asked him for money, threatening to beat him if he refused. They first asked Rs. 50, then Rs. 25, and a few days after the Naique and other Sepoys, among whom was prisoner, at the Marotee temple, in the village of Sangnee, told him to give them Rs. 9, and he should be set at liberty. This the complainant deposes happened while Saloo Koombhar was near, about 10 cubits off; but he states (vide No. 3) that he does not know anything of prisoner's demanding money from complainant until the occasion of its being given, which occurred afterwards. The next day, complainant continues, prisoner and another Sepoy told him to go home to the neighbouring village, and bring the Rs. 9; that he went, and brought them, and the prisoner and the other Sepoy told him to go to a shed in the garden of Govinda and Luximon Malee; that they would come there, and receive the money from him. He went accordingly, and meeting the prisoner there, in the presence of Luximon Malee, and another, he paid into the hands of Saloo Koombhar before mentioned Rs. 9, and these rupees Saloo counted and gave into the prisoner's hands. This

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evidence is confirmed by the testimony of Saloo (witness No. 3), and Luximon Malee (witness No. 4). The complainant was then allowed to return home. In a few days, the Police Amuldar of Parnair summoned him. He went there, and stopped on the way at a shop in the village, and while there, the prisoner, who it appears had come there too, forced him to take back Rs. 5, saying he had spent two of what complainant had given him, but that he would repay him the rest afterwards. This evidence is confirmed by Sowharam (witness No. 5), and Narayen Baboorow (witness No. 6), who were at the shop.

A good deal more evidence was taken by the Assistant Magistrate, but it was mere repetition of what has been deposed to by the other witnesses; and the Court therefore saw no necessity for calling on them to depose. The evidence being direct, and sufficient in quantity, the question for decision is, whether or not it is worthy of credit.

It may be said, that to receive a bribe so openly, and to return a part of the money before so many witnesses, is not what might be expected.

If this improbability is sufficient to discredit the evidence, then the Court must decide that six witnesses have perjured themselves at the trial, and many more before the Assistant Magistrate have done so, and without an apparently adequate inducement. The prisoner's defence is that this accusation has been falsely made, out of revenge for his having apprehended one Ruhimoo, a Mussulman, (who was suspected of receiving stolen property,) an inhabitant of Jowla, and Sowharam, the complainant in this case.

It has not in any way been attempted to be shown why the Jowla people should have a grudge against prisoner, for having apprehended Ruhimoo. The mere fact of his belonging to their village is not sufficient reason for supposing they would perjure themselves to

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avenge his cause. The same may be said as to the rest of the witnesses.

The Court cannot on this account discredit the evidence; the more especially as the manner in which it was given was most favourable to the supposition that it is true.

The prisoner is therefore convicted of misconduct as a Police Officer, in having received a bribe; in that he did, at Sangnee Soorya, in the Kurda Talooka of the Ahmednuggur Zillah, on the 12th December 1854, (corresponding with the 7th Margsheersh Wud, Shuké 1776,) receive a present of Rs. 9 from one Vishnoo Sowharam, inhabitant of Jowla, as an inducement to liberate the said Vishnoo Sowharam from the custody and surveillance of the party of Sepoys to which the prisoner belonged.

Having found the prisoner guilty, the Court, on a consideration of the general consequence of such offences, and the necessity to protect the public from extortion from persons in the prisoner's position, sentences the prisoner, Doorga wulud Huba, to one (1) year's imprisonment, with hard labour, in the Criminal Jail, under Regulation XII. of 1827, Section VIII. Clause 1st.

* * * * * *

There appears no necessity for compensating him for the loss of the remaining Rs. 4, as he appears to have at once in a most cowardly manner acceded to prisoner's extortionate demand, thus aiding the prisoner in the commission of his offence.

The Assistant Magistrate appears to have thought that the prisoner is the only one of the Policemen against whom the charge of bribery could be proved: but it appears to the Acting Assistant Session Judge that the Police Superintendent should be made acquainted with what has happened; and therefore, in case of these proceedings being brought under the notice of the Superior Court in appeal, he would recommend that the records

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of this trial should be sent for perusal to the Superintendent of Police.

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Resolution of the Sudder Foujdaree Adawlut.—The prisoner has not appealed against his conviction, and the proceedings ware only sent for because the law does not allow of "hard labour" being added to the imprisonment for the misconduct charged. The labour must be remitted, but no further interference seems called for.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

SURAT.

[Case No. 1 of the Criminal Return of the Magistrate of Surat for September 1854. Tried by Rao Bahadoor VENAYEK GUNESH, Deputy Magistrate, on the 24th, 25th, and 30th August 1854. Reviewed by Mr. H. LIDDELL, Magistrate, on the 12th September 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner Salejee Ismaljee.]

Robbery with Force, by Night; Instigating in the Robbery; and Receipt of Stolen Property.

Prisoners.—Nos. 1, Jeetlo Goslo, Bheel, aged 35.
2, Soorshungio Mandio, Bheel, aged 30.
3, Purtapio Bhikło, Bheel, aged 35.
4, Kashum Moozufur, Mussulman, aged 40.
5, Khalpo Huria, Dhero, aged 35.
6, Salejee Ismaljee, Bhora, aged 50.

Charge.—Against prisoners Nos. 1 to 3, robbery by night, with force (Regulation XIV. Section XXXVI. Clauses 1st and 3rd, of 1827); in having, on the night of Monday, the 31st July 1853, (corresponding with Ashad Wud 11th, Sumvut 1909,) entered, by making a breach through its back wall, the house of Kasiram Ruvidut, situated at the Kusba of Vusrave, in His Highness the Gaekwar's Territories, and stolen therefrom property, consisting of gold and silver ornaments, &c.

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of the value of Rs. 288-12-0, and belonging to the aforesaid Kasiram and others.

Against prisoner No. 4, instigating in the above robbery (Regulation XIV. Section I. Clause 5th of 1827); in having (the exact date unknown) in the month of July 1853, (corresponding with Ashad Wud, Sumvut 1909,) at Moujé Togapoor, Talooka Mandvie, instigated the abovementioned prisoners Nos. 1 to 3 to commit a robbery at the house of the aforesaid Kasiram, and also showed them the house in question.

And against prisoners Nos. 5 and 6, receipt of stolen property (Regulation XIV. Section XLI. Clause 1st of 1827); in having, in the month of August 1853, (corresponding with Ashad Wud and Shrawun Shood, Sumvut 1910,) in the Mandvie Talooka, received most part of the property said to have been stolen on the night of the 31st July 1853, knowing it to have been stolen, or having evident grounds for believing it to have been such, without bringing the circumstance to the notice of the Authorities, and found possessed of the same as follows:—

Prisoner No. 5, with clothes of the value of Rs. 21.

Prisoner No. 6, with gold and silver ornaments, of the value of Rs. 96-8-0, which he had obtained only for Rs. 43.

The prisoners plead not guilty.

Finding and Sentence by the Deputy Magistrate.—From a mature consideration of the evidence recorded in this case, the Deputy Magistrate draws the following conclusion:—

The prisoners Nos. 1 to 3 (Jeetlo Goslo, Soorshungio Mandio, and Purtapio Bhiklo) are charged with robbery by night, with force, and plead not guilty.

Against the prisoner No. 1, except the evidence of Pema Situl (witness No. 8), to the effect that he (the prisoner No. 1) and one Vichia, sold the jewels to

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Salejee (prisoner No. 6), there is no proof; and there being no proof whatever against the prisoners Nos. 2 and 3, they (the prisoners Nos. 1, 2, and 3) are accordingly discharged; but as suspicion is attached to Jeetlo (prisoner No. 1), he is ordered to find two (2) securities, each for fifty (50) rupees, for the space of one (1) year, for his future good conduct; or in default to suffer imprisonment for the period for which the sureties are required. The securities, in default of payment, to suffer two (2) months' ordinary imprisonment. (Regulation XII. Sections XXV. to XXVII. of 1827.)

The prisoner No. 4 (Kashum Moozufur) is discharged, as there is no proof whatever to show that he instigated in the robbery for which prisoners Nos. 1 to 3 were arraigned.

The charge of receiving property, knowing it to have been stolen, or having evident grounds for believing it to have been such, is clearly established against the prisoners Nos. 5 and 6 (Khalpo Huria and Salejee Ismaljee), as the property in the accusation was found in their possession; and besides this, as regards the prisoner No. 6, he admits the charge before the Joint Police Officer, and confirms his first confession before the District Police Officer. He only now repudiates it, and states that the property found at his house has descended to him from his father, but adduces no proof to support his statement. Moreover, the evidence of the witnesses who attested his confession goes to show that it has been voluntarily made by him; and the whole of the property found at his house, at the same time, is identified by two witnesses (Nos. 5 and 6) for the prosecution, as that belonging to the prosecutor Kasiram.

Accordingly, the prisoner No. 5 (Khalpo), in consideration of the small amount of the property found with him, is sentenced to six (6) months' imprisonment, with hard labour; and the prisoner No. 6 (Salejee) is sen-

tenced to one (1) year's imprisonment, with hard labour. (Regulation XIV. Section XLI. Clause 1st of 1827.)

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The foregoing sentence is subject to the confirmation of the Magistrate. (Regulation IV. Section III. of 1830.)

Reviewed by the Magistrate.—Conviction and sentence confirmed.

The Magistrate has to remark, that the reason assigned by the Deputy Magistrate for passing a lenient sentence on the prisoner Khalpo, in this case, does not appear to him to be sound, as the culpability of a receiver of stolen property is not enhanced or lessened according to the amount of property he may receive. The crime of receiving stolen property is one of the most grave kind, because, if there were no receiver, there would be few or no thieves, and there ought, therefore, to be no sliding scale of guilt in this case.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected; and the Magistrate is to be told that he would have exercised a sound discretion had he annulled the conviction, and committed the prisoner for trial before the Sessions Court.

Present, ASHNESS REMINGTON, Esq., METCALFE LARKEN, Esq., WM. HENRY HARRISON, Esq. } Puisne Judges.

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TANNA.

[Case No. 4 of the Criminal Return of the Magistrate of Tanna for May 1855. Tried by Mr. R. H. SHOWELL, Deputy Magistrate, on the 4th May 1855. Proceedings submitted for the consideration of the Sudder Foujdaree Adawlut, by the Magistrate.]

Prisoner.—Balia Bhugwan, Mahratta, aged 25.

Fraudulently Removing Property from its Owner.

Charge.—Fraudulently removing property from its owner (Regulation XIV. of 1827, Section XL.); in having, date unknown, at a fair held in honour of Narba Dewee, near Tanna, Talooka Salsette, Zillah Tanna, in the month

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of April 1855, (corresponding with Chuitru, Shuké 1777,) obtained from Isram bin Chutrupol, a sweetmeat seller, 6 seers of sweetmeat, valued at 12 annas, falsely stating it was required by the Foujdar of Tanna, and taking the same without paying for it.

Prisoner pleads not guilty.

Finding and Sentence by the Deputy Magistrate.—It is clear from the evidence of the complainant, and his witness Ruma, that prisoner did get the sweetmeat in the Foujdar's name,—falsely given, as the Foujdar's evidence (No. 3) shows,—without paying for it; and the attire in which prisoner appeared at the fair,—that rather of a Karkoon than of a blacksmith,— was sufficient to deceive the complainant, as it did. The charge appears to be fully proved; but as the prisoner was bound over on the 10th November last to abstain from committing such an offence, amongst others, during a period still current, this case must be decided in the manner prescribed in the Circular of the Sudder Foujdaree Adawlut No. 98, dated 9th January 1852, the forfeiture of the recognizance bond being the graver offence.

Read the recognizance bond given by prisoner on the 10th November 1854, which is to the effect that from that day for two years he will not commit the crimes of robbery, receiving stolen property, fraud, and assault; that if he does not act accordingly, he will be imprisoned with hard labour, for two (2) years.

The prisoner having now acknowledged this act of his at the foot of the bond, it is recorded No. 6.

The recognizance bond is now, by virtue of the foregoing convictions of the present fraud, declared forfeited. Prisoner is informed accordingly; and that, in the terms of the bond, he is sentenced to suffer two (2) years' imprisonment, with hard labour. Subject to the confirmation of the Sudder Foujdaree Adawlut. (Regulation XII. of 1827, Section XXVI. Clause 2nd.)

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The prisoner, on hearing the above decision, broke out into the most indecent and boisterous threats against the Foujdar in this Court; but as the Deputy Magistrate trusts, from what follows, that this man will now receive in full a punishment he richly deserves, no further notice is taken of his present conduct.

The following former convictions are against the prisoner, viz :—

1842, September 17th.—For theft; sentenced to three months' imprisonment, with hard labour, being only seventeen years of age.

1849, November 3rd.—For theft; six weeks' imprisonment, with hard labour; and for fraudulent appropriation of property; one and a half month's imprisonment, with hard labour.

1853, September 16th.—For fraudulently keeping property from its owner; two months' imprisonment, with hard labour.

1854, May 10th.—For a similar offence; six months' imprisonment, with hard labour, and to be returned for the adoption of precautionary measures.

From the foregoing, and from the personal knowledge the Deputy Magistrate has of the strong public feeling against this man, arising out of his numerous acts of imposition on the unwary and ignorant, he considers it absolutely necessary that he should be placed under restraint. One of his practices, as evinced in instances wherein nothing beyond the complainants' statements was obtainable, is to apply to poor ignorant villagers for money, on pretence that he will, through agency in Bombay, procure the liberation of their relations or friends from Jail; and on this account the Superintendent of Police was on the 6th January last requested to warn the Police to keep a sharp eye on him, in other districts, where he then seemed inclined to try his expedients, which request was complied with.

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Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In accordance with Clause 2nd, Section XXVI. Regulation XII. of 1827, I have the honour to forward, for submission to the Sudder Foujdaree Adawlut, and for such orders as the Court may deem requisite, the papers connected with, and the proceedings held in, the case of the prisoner Balia Bhugwan, and to report that he has been convicted before the Hoozoor Deputy Magistrate of Tanna of forfeiture of his recognizance, and sentenced for the same, according to the terms of his recognizance, to suffer two years' imprisonment, with hard labour.

He is an old offender, and being of notoriously bad character, was bound down on the 10th November last to refrain from fraud, and other specified offences, for a period of two years.

An original Mahratta petition from the prisoner is also enclosed.

Minute recorded by Mr. W. H. Harrison.—The Circular Order (No. 98) quoted having been cancelled, the case should be returned, in order that the trial may be completed, by sentence being passed for the crime of which the prisoner was convicted.

Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion that the act of the prisoner was not one which is cognizable under Section XL. Regulation XIV. of 1827. The order for the enforcement of the penalty of his 'mochulka' is accordingly annulled, and he is to be discharged.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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BROACH.

[Case No. 24 of the Criminal Return of the Magistrate of Broach for May 1854. Tried by Mr. L. R. ASHBURNER, Acting First Assistant Magistrate, on the 1st and 27th May 1854. Reviewed by Mr. E. L. JENKINS, Magistrate, on the 15th June 1854. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Prisoners.—No. 1, Rajgur Veneegur, Gosaeen, aged 45.
2, Bechur Veneegur, Gosaeen, aged 40.

Illegal Possession of Opium.

Charge.—Having in their possession more than a quarter of a Surat seer of opium, they not being licensed vendors of opium, nor having obtained possession of it in a legal manner; in that they had in their possession, in their house in the village of Kulmar, of Jumbooseer, on March 13th 1854, (Falgoon Shood 14th, Sumvut 1910,) 17 seers and $3\frac{1}{2}$ tolas of opium (Broach), the same not having been obtained in a legal manner. (Regulation XXI. of 1827, Section X. Clause 4th.)

The prisoners plead not guilty.

Finding and Sentence by the Acting First Assistant Magistrate.—Prisoners are guilty of having in their possession more than a quarter of a seer of opium, they not being licensed retailers of opium, nor having obtained it in a legal manner.

Postponed, to allow of the opium being sold, and the amount of the fine determined.

* * * * * *

The prisoners are each fined double the value of the opium, at the rate of Rs. 3 per seer, viz. Rs. 107-13-4, and double the amount of duty leviable upon it, viz. Rs. 431-5-7 ; total Rs. 539-2-11 (Rupees five hundred and thirty-nine, Annas two, and Pies eleven), in default

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BROACH.

Illegal Possession of Opium.

imprisonment on hard labour, for one (1) year. (Regulation XXI. of 1827, Section IV.)

* * * * * *

One-third of the fine, if recovered, to be given to the Police informers.

Reviewed by the Magistrate on Appeal.—The Magistrate sees no reason to interfere with the sentence; but the Assistant Magistrate is informed that one-third of the proceeds of the opium, and not one-third of the fine, must be awarded to the informer, under the provisions of Clause 5th, Section VI. Regulation XXI. of 1827.

Resolution of the Sudder Foujdaree Adawlut.—The Court do not see cause to interfere with the conviction in this case; but it is urged that the fine is unlawful in its amount, the full penalty incurred being laid upon each prisoner, instead of being divided between them; and the Court consider that the objection is sound. The law awards a certain pecuniary mulct for an offence against the excise laws, of the commission of which two persons are convicted. The penalty cannot be multiplied by the number of offenders, but must be divided by that number, and to this extent must this sentence be amended, viz. by the remission of one-half of the fine.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

TANNA.

[Petition of Booda Durgajee Shet to the Sudder Foujdaree Adawlut, praying for the restoration of his Cattle, which were taken away from him, and made over to another party. Referred for Report to the Magistrate of Tanna, Mr. G. B. SETON KARR, on the 21st March 1855.]

Possession of Property given by the Magistrate.

Return of the Magistrate to a Precept of the Sudder Foujdaree Adawlut.—In obedience to the instructions contained in the Court's Precept No. 277, dated 21st ultimo, the Joint Magistrate has the honour to make the

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following report on the petition herewith returned of Booda Durgajee Shet :—

In the month of January last the petitioner was, with three other persons, tried before the District Deputy Magistrate, for robbery by day, with force ; in having forcibly taken away from the house of the complainant, Raghojee bin Babajee Rania, eleven head of cattle, of the estimated value of Rs. 64.

After going through the evidence, the Deputy Magistrate discharged the prisoners, on the grounds that no violence had been used ; that, as alleged by the defence, it appeared that the cattle were removed in satisfaction of a debt due by the complainant Raghojee to the petitioner Booda, and to warrant which removal the petitioner produced a document, purporting to be the deed of sale of the cattle to him by the complainant, for the sum of Rs. 49-4-0.

On examination of evidence on this point, the Deputy Magistrate believed the deed of sale put forward by the petitioner, and which is not on stamped paper, to be a false document, as the alleged writer of the signatures to it of the complainant and his wife declared that their signatures were not in his handwriting ; and, moreover, that the document which he attested was on 'Joonéree,' and not on French paper, as that shown him.

The Deputy Magistrate, under these circumstances, directed the cattle to be made over to the complainant Raghojee, as the rightful owner, and referred the petitioner to civil action for the recovery of his debt.

The petitioner, on appeal to the Joint Magistrate, was informed that the Deputy Magistrate's decision in his case was upheld.

The assertion made in the petition, of the complainant's having allowed the cattle to remain in his (petitioner's) possession for two months and a half before any complaint was made against him, is explained by the fact,

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which has been proved in evidence, that at the time of the removal of the cattle up to the date of his complaint, the complainant was laid up with guinea-worm and sickness, and therefore unable to complain any sooner than he did.

The papers and proceedings are herewith forwarded.

Resolution of the Sudder Foujdaree Adawlut.—Petition struck off, the petitioner being absent for the third time.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

SHOLAPORE.

[Petition of Mohun bin Eshwuntrow to the Sudder Foujdaree Adawlut, praying for an Order to the Magistrate of Sholapore to restore his Property. Referred to the Magistrate, Mr. A. BOSANQUET, for report, on the 4th April 1855.]

Property of a Person accused of Robbery.

Return of the Magistrate to a Precept of the Sudder Foujdaree Adawlut.—With reference to the above, the Acting Second Assistant Magistrate has the honour to report, that the convict Dulba stated before the Session Judge, when tried for the robbery of the Barsee Moonsiff's treasury, committed in November 1854, that he and the rest of all the guard, including the petitioner, had committed the robbery of the Barsee Moonsiff's treasury, in April last, though the Moonsiff's Karkoon had, in consequence of the culprits not being discovered, been made to make good the whole amount that was missing, viz. Rs. 326-6-6.

In March last, the abovementioned clerk, by name Vitul Keshow, petitioned the Acting Second Assistant Magistrate to order, that until further inquiry was made about the perpetrators of the robbery committed in April last, by which he was so great a sufferer, the goods belonging to Mohun (the petitioner), which were in the Police Amuldar's custody, should be withheld from him. Accordingly on the 2nd March an order to that effect was

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given; but after an inquiry into the matter, proof not being forthcoming against the petitioner, on the 23rd ultimo the Acting Second Assistant Magistrate ordered that the petitioner's goods should be returned to him.

Resolution of the Sudder Foujdaree Adawlut.—The petitioner is referred to the Magistrate.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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POONA.

[Case No. 51 of the Calendar of the Poona Sessions Court for 1854. Committed by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 28th July 1854. Tried by Mr. P. W. LEGEYT, Session Judge, on the 10th and 11th October 1854. Proceedings submitted for the consideration of the Sudder Foujdaree Adawlut, on the petition of the prisoner Dhondoo Rughoonath Aurungabadkur.]

Robbery; and Receipt of Stolen Property, knowing, or having evident grounds for believing the same to be such.

Prisoners.—No. 1, Dhondoo Rughoonath, Brahmin, aged 25.
2, Sukoo, mother's name Kashee, Wanee, aged 25.

Charge.—Robbery (Regulation XIV. of 1827, Section XXXVII. Clause 4th); in having, some day not known, between the 15th February 1854 (Magh Wud 2nd, Shuké 1775) and 19th February 1854, (Magh Wud 7th, Shuké 1775,) in the city of Poona, stolen a 'hoondee,' dated 14th February 1854, for Rs. 30, drawn by Dorabjee Nusserwanjee of Bombay on Sorabjee Cursetjee Raja of Poona, in favour of complainant Bhagoo, mother's name Owdee.

Prisoners are also charged with receipt of stolen property, knowing, or having evident grounds for believing the same to be such (Regulation XIV. of 1827, Section XLI. Clause 1st); in having, on the day referred to in the above charge, received in your possession the aforesaid hoondee, knowing, or having evident grounds for believing the same to have been stolen.

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The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The case is closed, and the Jury are requested to give their opinion as to the guilt of prisoner No. 2 (Sukoo).

They, after discussing the case verbally, come to the opinion that there is no proof that the prisoner No. 2 (Sukoo) was aware of the prisoner No. 1 (Dhondoo Rughoonath) having received the stolen hoondee, or that in following his directions, in stating her name was Bhagoo, that she was aiding and assisting him in obtaining the money for the hoondee which he had stolen, or received knowing it to be stolen.

In this opinion the Court concurs, as it finds that the only evidence against her is contained in her own statement, and Byramjee Sorabjee's evidence (No. 9), in neither of which is there proof that she knew of the theft of the hoondee; and therefore, although she acted very imprudently in assenting to the request of the prisoner No. 1 (Dhondoo Rughoonath), yet there is nothing to show that she did not do so for the inducement she herself asserts, and which for a person of her profession and condition does not seem improbable.

A verdict of acquittal is recorded, and she is discharged.

In respect to the prisoner No. 1 (Dhondoo Rughoonath), a verdict of guilty of receiving stolen goods, knowing them to be such, is recorded against him; inasmuch as he did receive into his possession a hoondee, drawn by Dorabjee Nusserwanjee in favour of one Bhagoo, and did obtain the value thereof, knowing it to have been stolen.

In passing sentence, the Court records, that what he has stated before this Court will be forwarded to the Magistrate, with a view to the further investigation of the case against Bapoo Oodas,* and any others who may

* For trial of this person, see pp. 378 to 384 of this vol.

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be concerned in this nefarious robbery of the Post Office. It also records, that if through his means a greater culprit than himself is discovered and punished, that his case, and the disclosures he has made in Court this day, will be entitled to consideration, and that a representation will be made in the proper quarter for such mercy as it may be deemed proper to show towards him; but with this, this Court has now nothing to do. His statement may be true, or it may be false: his retractation of the plea of not guilty, and his pleading guilty, may have saved the Court some trouble, and have evinced a wish on his part to make what amends he could for his crime, which is a most serious one.

The sentence of the Court is, that you, Dhondoo Rughoonath, be imprisoned for the space of two (2) years, and then discharged. (Regulation XIV. of 1827, Section XLI. Clause 1st.)

Petition of Dhondoo Rughoonath to the Session Judge.—That the prisoner Bapoo Oodas, having stolen the hoondee of the complainants Dhondoo and Bhagoo, made it over to your petitioner, who got it cashed. On this information, your petitioner was charged with robbery, and committed for trial to the Sessions Court, upon which your petitioner made a detailed petition, to the effect that he had not stolen the hoondee; that he was not aware of its being a stolen one; and that it was given to him by one Bapoo Oodas, attached to the Post Office, in order to get it cashed. On this confession in the above matter, your petitioner was sentenced to two years' imprisonment; and your honour, suspecting Bapoo Oodas to be the principal offender, resolved, in Case No. 51 of the Calendar, to send him to the Magistrate, who, having prepared a case against him, committed it to the Sessions Court, by whom he was sentenced to seven years' imprisonment. It is stated in the proceedings of the said Case No. 51, that if the crime should be brought

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home to Bapoo Oodas, it should be a matter for consideration whether your petitioner should be released. Now, although Bapoo has been sentenced, nothing has been done respecting the release of your petitioner, who therefore prays that the former proceedings in Case No. 51, and those in which sentence was passed against Bapoo Oodas, may be inspected, and measures taken to set your petitioner at liberty. And your petitioner, as in duty bound, shall ever pray.

Proceedings of the Session Judge, consequent on the Petition.—The Session Judge places on record the following remarks on this petition, to which he begs the consideration of the Judges of the Sudder Foujdaree Adawlut:—

The petitioner was charged, and tried and convicted, in Case No. 51 of the Calendar of 1854, of stealing a hoondee, which had been forwarded from Bombay in a letter addressed to a party at Poona.

It never reached the party, but was cashed by the petitioner, who got a woman named Sukoo to personate the party to whom the hoondee really belonged.

In the course of the trial, (the opinion of the Assessors, and finding of the Court, together with the petitioner's statement are herewith forwarded,*) it became manifest

* *Translation of the Defence given by Dhondoo Rughoonath Aurungabadkur to the Session Judge.*—I am arraigned before the Sessions Court in the case of a hoondee. I therefore beg to state the true state of the matter from the beginning, in the following paragraphs:—

About nine months ago Bapoo Oodas, a writer in the Post Office, was coming from Garpeer; I met him in the Ruveewar Peit. He took me aside, and asked me to come to his house the next day, as I was likely to get two or four rupees, with a view to gain some lucre. I went to Bapoo's house. He told me that he had a hoondee of Bhagoo Sutarkureen, and that I should take it to the shop of Sorabjee Parsee, and get the money from him. Bapoo told me that he had known Bhagoo, who was his friend. I believed him, as he was a respectable man, and a Government servant, and complied with his request. He also told me, that when I shall have got the money,

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that the prisoner was not the only, and probably not the chief delinquent.

A man named Bapoo Oodas, a Clerk in the Post Office,

he would give me something for my trouble. I went then to the shop of Sorabjee, in the Cantonment, and showed him the hoondee. He required security from me. I gave Suyajee, a respectable man residing in the Cantonment, security. Sorabjee told me that he had received a letter from Bombay, requesting him to deliver the moneys personally to the person to whom they were sent. I went to the Post Office, and informed Bapoo Oodas of it. He and I came then into the city. Bapoo Oodas told Sukoo (prisoner No. 2) that a man wished to engage her, and that therefore she should say that her name was Bhagoo to the Parsee whom Dhondoo Punt would bring. He also told her that if she would do as she was told, she would get two rupees. Subsequently, at the request of Bapoo, I went to the Cantonment, and brought Byramjee, the son of Sorabjee, in Poona. We went, in Shookruwar Peit, to the house in which Chima Saswudkureen resided, where Chima and the prisoner No. 2 were sitting. The Parsee asked them whose name Bhagoo was. The prisoner No. 2 said that her name was Bhagoo. The Parsee, having desired me to endorse a receipt on the hoondee, I did so, and the prisoner No. 2 put a mark on it in the name of Bhagoo. The Parsee made over to me Rs. 30 on account of the hoondee. On the departure of the Parsee, the prisoner No. 2 asked me to give her two rupees. I told her that when Bapoo came I would ask him, and then give the rupees to her. Thus I did not give the money to her. Having cause to suspect that there was some fraud, I informed Ramkrishna Baput of the whole matter. He told me that Bhagoo Sutarkureen was a prostitute, and resided in Bhoodwar Peit; that what I did was irregular; that therefore I should deliver up the money to her, and get a receipt therefor; that I should ask her for the present of two rupees; and that by doing so I would be free from blame. In the evening I saw Bapoo Oodas in my house, who demanded the money; but I told him that I would not pay it to him, because people threaten me. The next day, at noon, Chima Saswudkureen and I went to inquire after the house of Bhagoo. Having gone to her house, we asked her what her name was. She said that her name was Bhagoo. I said to her, that were I to find out a thing which she had lost, what present she would give to me? She replied, that until she knows the particulars she could give no promise. After this, I told her that a hoondee in her favour has come from Bombay. She asked me how the hoondee came in my hands. I told her that she need not ask me about it; that she should take the money

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was cited to give his evidence, and when he had given it, the petitioner's counsel made an application to the Court to be allowed to retract his plea of not guilty, and

of her hoondee, and pass a receipt therefor to me. She desired me to keep the money with me until she would obtain an answer from Bombay. Two or three days after this I again went to Bhagoo, and told her that I had to go to Bombay, and requested her to receive the money, and to pass a receipt therefor. Bhagoo said that she had received no answer as yet from Bombay, and that if I had to go to Bombay, I should bring the person to her who would pay her the money of the hoondee. I told her that one Rungo Krishn Kedkur would pay her the money; and I went to Bombay. I returned from Bombay after two or three weeks. Before my arrival, Bhagoo had received the answer. Bhagoo told me that she had received her answer, and asked me to pay the money, and to take the receipt. The next day I went to Bhagoo's house, and offered her Rs. 20 in the presence of certain persons, and asked her for a receipt. She executed a receipt in English for Rs. 30 through one Ram Bhaoo, a writer, and told me to bring the remaining Rs. 10 and take the receipt. I told her that I would bring the Rs. 10 the next day, and departed from her house. The next day being a holiday, I could not go to her for two or three days. I went to Bhagoo's house on Falgoon Wud 6th, when there were many persons present. I told Bhagoo in their presence to execute a receipt in Mahratta, and to receive the remaining rupees. Bhagoo executed a receipt in Mahratta through a Brahmin, and after the signature and attestations were put on it, I gave her Rs. 9, and kept one rupee for myself. She told me that I should take 8 annas as remuneration, and pay to her 8 annas, and then take the receipt; 8 annas were not with me, and therefore the receipt was kept with a third party. The next day I went to Dehoo. On my return, I offered 8 annas to the third party, and asked him to return the receipt; but he replied that he had given the receipt to Bhagoo. I again went to Bhagoo, when Anundrow, Rambhaoo, and Baljee were sitting there. I requested Bhagoo to take her 8 annas, and return the receipt to me. Bhagoo said to me, that if I would relate the true state of the matter to Anundrow, she would give the receipt, and should I refuse, she would take me to the Foujdar. Accordingly, I mentioned the particulars to him: when they said, that if I should not pay to them a penalty of Rs. 30, they would hand me over to Government. I was afraid, and was engaged in procuring the money, and consequently was not able to go to the prosecutor, who therefore preferred complaint against me. I was summoned by the Foujdar;

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to plead guilty, and give a full statement of the facts, with a view to convict Bapoo Oodas, who he declared but before I went there, Bapoo Oodas came to Rungo Krishn's house, where I was, and said to me, that if required he would spend money in this case, and requested me not to mention his name; that he would procure my enlargement; that he knew well the Regulations of Government; that if I should mention his name, he would lose his employment; that therefore I should say that I did everything; and that should I mention his name, he would endeavour to get me punished severely. I therefore did not mention Bapoo's name.

I am an ignorant man; I am not aquainted with the Regulations, &c. Bapoo Oodas is a Government servant, and I thought that he would not commit fraud, and therefore I did the work above described. I did not steal the hoondee, nor had I any profit in it. Bapoo Oodas was to get the money. I was not the offender; still the Deputy Magistrate had sentenced me to six months' imprisonment, part of which I had undergone. Government passed over the real offenders, and implicated me, an innocent man, in the offence. I am the principal witness in this case, but no one examined me as a witness. I am considered as the offender. I am thus annoyed for eight months. If Government would minutely consider, they would be convinced of my innocence.

Had I intended to commit this fraud, I would not have related the particulars to Bhagoo, and delivered the money to her. The prosecutor also states in her deposition that I used to go to her. Bapoo Oodas is the principal offender in this case, and it is he who committed theft in the Post Office; but Government think that I am the thief. Government should principally see, that how can a hoondee that was sent through the Post come to my hands.

I have neither committed a theft, nor did I receive stolen property. I merely endeavoured to obtain the money of a hoondee at the request of Bapoo Oodas, under a supposition that Bapoo, who was a servant in the Government Post Office, would not commit fraud. If Government would grant me a certificate, I would properly substantiate what I have stated above. If the Regulations do not authorise the Court to grant me the certificate at this stage of the proceedings, a reference may be made to Government, and till the receipt of their reply the inquiry of this case may be postponed. If the Court would not do so, I should be disgraced without any cause; the principal offenders will be passed over, and I should have to suffer punishment. This may be considered.

I have stated the true state of the matter for the information of Government. I beg this may be properly considered, and I may be enlarged.

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was the principal in the case, and in which he was the instrument only; and in doing so he prayed for a pardon. The facts of the case seemed to bear out what the petitioner stated, and the Court allowed him to retract his former plea, and substitute the one of guilty, on which a conviction was recorded. The Court then informed him that Bapoo Oodas would be prosecuted, and his evidence would be taken, and on the result of that trial would depend whether any recommendation to mercy would be made for him. He was sentenced to two years' imprisonment.

The Session Judge is aware, by the result of Case No. 49, that this sort of procedure has been disapproved of by the Sudder Foujdaree Adawlut; but it is to be observed that this disapproval is subsequent to the trial of Case No. 51.

Subsequently Bapoo Oodas was tried and convicted, and sentenced in Case No. 67 of 1854 to seven years' imprisonment. In this case the evidence of Dhondoo Rughoonath was taken, (his deposition in that case is herewith forwarded,) and it was very material to the conviction of the prisoner.

The Session Judge is therefore of opinion that Dhondoo Rughoonath may be considered to have earned his pardon, by being the means of bringing to justice his more culpable accomplice, whose position as a Post Office Clerk enabled him to perpetrate robbery of letters and their contents with an impunity which, it is to be feared, was suffered to exist for some time.

The Session Judge resolves to submit his respectful recommendation that the petitioner should be pardoned, and released.

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to submit, for the consideration of the Judges of the Sudder Foujdaree Adawlut, a petition from Dhondoo Rughoo-

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nath, and an extract from my proceedings of the 3rd instant, together with its accompaniments.

Resolution of the Sudder Foujdaree Adawlut.—The Session Judge of Poona forwards a petition from Dhondoo Rughoonath, praying for a pardon, on the ground that he has given evidence against a principal in the crime of which he was found guilty, viz. receiving a hoondee, stolen from a letter, in which it had been dispatched by post.

The Session Judge recommends the grant of a pardon to Dhondoo Rughoonath, on the ground of the service rendered by him towards the conviction of a greater criminal than himself.

It appears, that during the six months that the Post Office robbery was under investigation, the prisoner gave no information at all; but at the last hour, on the eve of conviction himself, for his share in the matter, he pleaded guilty, and offered to denounce his principal. This did not stay his sentence; but his testimony has been received, as proposed, and the principal convicted.

Considering that hopes have been held out to this man that his giving evidence against the principal offender would tell in his own favour, the Court consider that one year of his sentence may be remitted; and a recommendation to that effect is to be made to Government.*

* *Letter from the Registrar of the Sudder Foujdaree Adawlut to the Secretary to Government.*—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to forward, for the purpose of being laid before the Right Honorable the Governor in Council, the documents in the case of Dhondoo Rughoonath, a prisoner in the Poona Jail, and to convey the recommendation of the Court that one year of the sentence may be remitted.

I am desired to request that the original documents may be returned when no longer required.

Resolution by the Government.—That under the circumstances stated by the Judges of the Sudder Foujdaree Adawlut, one year of the prisoner's sentence may be remitted.

Resolution of the Sudder Foujdaree Adawlut.—Warrant to be issued.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

KHANDEISH.

[Case No. 20 of the Calendar of the Khandeish Sessions Court for 1855. Committed by Rao Bahadoor RAM NAID, Deputy Magistrate, on the 21st March 1855. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 28th March 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Murder.

Prisoners.—No. 1, Hasria *alias* Usria wulud Bhugut, Mhar, aged 40.

2, Hunmunta wulud Mansing, Mhar, aged 22.

Charge.—Murder; in having, on the afternoon of Thursday, the 22nd February 1855, (corresponding with Falgoon Shood 6th, Shuké 1776,) between the hours of 2 and 3 P. M., at the town of Thamuswaree, Talooka Burgaum, Zillah Khandeish, the prisoner No. 1 (Hasria) unlawfully assaulted with a bludgeon one Bowajee wulud Govinda, Mhar, aged about thirty-five years, and inflicted on his back one or two severe blows, and prisoner No. 2 (Hunmunta) struck, and severely wounded, the top of his head with a sharp stone,—from the effects of which the said Bowajee died on 3rd March 1855; the prisoners thereby rendering themselves amenable to the provisions of Regulation XIV. of 1827, Section XXVI.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—That the evidence before this Court has discrepancies is a matter rather corroborative of the general result of the circumstances detailed by the evidence marked Nos. 5, 6, and 7, than a matter of doubt, which should cause the Court to reject the statements of the Mhars, who were present during this unfortunate affair. Each man, in all probability, has spoken to what he saw; and the Court is constrained to observe that the manner of the witnesses was such as to lead to the belief that they spoke the

truth; especially as the evidence offered by the Police Patel Bhojoo, in his evidence No. 8, and that of the two witnesses for the defence, whose evidence, entered Nos. 11 and 12, shows a decided inclination to conceal much that they did see, and affect to treat the matter with levity,—as the result of a mere drunken quarrel; and especially guarded is the first witness called for the defence (Kondoo wulud Maojee, No. 11), who prefaced that he did not see the deceased in a state of intoxication, but that he and the prisoner No. 1 (Hasria) were sent by the Police Patel,—who in his deposition before this Court could not show that he took any steps to investigate the matter, nor could he name those from whom he inquired after the deceased had come with other Mhars and accused Hasria and Hunmunta (prisoners Nos. 1 and 2) of the assault, which appears to have been followed by the death of Bowajee. His deposition is peculiarly cautious, both before this Court, and before the Police Authorities on 23rd February 1855, in which he states that Hasria (prisoner No. 1), arriving before him, began to quarrel with the complainant. Before this Court, this witness states that he sat down for a purpose which presupposes that he did *not* turn his face towards the assembled people, and therefore was not at all able to see what did occur; after which he returned to the guard-house, or ran away. The other witness for the defence, Ana wulud Roopla, asserts that people told him the Mhars had been drinking; but he, as well as the witness No. 11 (Kondoo), corroborates the statements of the witnesses Sookia (No. 5), Sonia (No. 6), and Gavunjia (No. 7) in this particular, that a struggle between some Mhars took place, in which Hasria (prisoner No. 1) and Bowajee (the deceased) were engaged. The evidence for the defence allows that the weapon before the Court was in the hands of prisoner No. 1 (Hasria) when he went to the scene of action; and the Court gathers, from the

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statements of all the evidence for the prosecution and defence, that on Thursday, the 22nd February 1855, one day before the bazar at Thamuswaree, on the occasion of a meeting of the Mhars of Koonjhur and Thamuswaree, to celebrate the betrothal of the son of deceased Bowajee with the daughter of Poonja Mhar, after they had been drinking, and had sat down to eat, the prisoner No. 1 (Hasria) came, and with him the prisoner No. 2 (Hunmunta), and began to abuse the Mhars in general, as the evidence marked No. 5 and 6 has it, and deceased in particular, as the evidence of Gavunjia (witness No. 8) has it; wherefore, according to Exhibits 5 and 6, deceased asked the reason, and Hasria (prisoner No. 1) appears to have merely struck him on the back a blow with the formidable weapon in Court, held in both hands, as all the three eye-witnesses (Nos. 5, 6, and 7) affirm; and having felled him, returned towards the guard-house, which it is in evidence was near the spot, but from whence the Police Patel Bhojoo did not once emerge, to inquire into the riot,—for it is not to be supposed that such violence was followed by silence; and that while deceased Bowajee was on the ground, insensible, the prisoner No. 2 (Hunmunta) struck him on the head with a rugged stone, according to the statements of the witnesses Sookia, Sonia, and Gavunjia, (an act for which evidence does not account, and which therefore appears mere wanton cruelty, probably under the excitement of the moment,) and with his companion to have left the scene. The evidence of the Members of the Inquest (witnesses Nos. 2 and 3), and their statement No. 4, describe the wound on the top of the head to be a deep cut,—not likely to have been made by a fall, as set up in defence by prisoner No. 1 (Hasria), but quite compatible with the statements in evidence Nos. 5, 6, and 7,—and one large wale on the left shoulder; but the Court has observed that the Members of the Inquest often name the side which is their own

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left or right, and quite the reverse of a corpse, probably lying on the back. However this may be, the evidence No. 6 pointed to his own right side as the seat of the blow. These, and the discrepancies as to the position of deceased, are forcibly dwelt on in the defence; but as the evidence No. 7 is to the effect that he and deceased were both intoxicated, while that of the evidence Nos. 5 and 6 is that no one was intoxicated,—and least of all could prisoners Hasria and Hunmunta have been intoxicated, as they did not join the party till after the drinking had ended,—this Court is of opinion that the prisoners Hasria and Hunmunta are convicted of culpable homicide, and not of murder, which is the offence for which the Deputy Magistrate committed them; but as this Court finds no evidence to intention of causing death,—though from the circumstances of the act, and the weapon used, and the manner in which, according to evidence Nos. 5, 6, and 7, that weapon was used, there can be no doubt of the ferocity evinced by the prisoner No. 1 (Hasria); and in the want of evidence as to the cause of the part (described by the same evidence) taken by the prisoner No. 2 (Hunmunta), his act appears to show mere wanton cruelty, but not the intention of murder,—under these circumstances, the Court finds the prisoners No. 1 (Hasria) and No. 2 (Hunmunta) guilty of culpable homicide; in having, on the afternoon of Thursday, the 22nd February 1855, (corresponding with Falgoon Shood 6th, Shuké 1776,) between the hours of 2 and 3 P. M., at the town of Thamuswaree, Talooka Burgaum, Zillah Khandeish, the prisoner No. 1 (Hasria) assaulted one Bowajee wulud Govinda, Mhar, aged about thirty-five years, and with a heavy stick inflicted one or two blows on the shoulder, and prisoner No. 2 (Hunmunta) struck him with a stone on his head,—from the effects of which the said Bowajee died on Saturday, the 3rd March 1855.

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The Court here remarks, that the effects of the firing the wounds alluded to by the Members of the Inquest is not on evidence, and therefore no remark is necessary as to the probable effect to aggravate or alleviate suffering; and for that reason, and at the request of the Counsel of the prisoners, the evidence of the Civil Surgeon was not taken.

The Court of Sudder Foujdaree Adawlut, in their Resolution of 19th January 1854, considered a "drunken brawl" to afford extenuating circumstances sufficient to call for a mitigated punishment! If the evidence of Sookia and Sonia (witnesses Nos. 5 and 6) is to be believed on any point,—they affirm that neither they nor the deceased, nor the prisoners were intoxicated,—and whether the aggressors or the aggrieved were under the influence of liquor, or both, must certainly weigh against a prisoner rather than in his favour; but in the present instance it is on record that the prisoners Hasria and Hunmunta were not intoxicated: with regard, therefore, to this Resolution of the Sudder Foujdaree Adawlut, and the circumstances of the case as detailed in evidence, the Court proceeds to pass the following sentence:—

That you, Hasria *alias* Usria wulud Bhugut, and you, Hunmunta wulud Mansing, having been convicted on evidence before this Court of culpable homicide, under circumstances of unprovoked ferocity on both your parts, do undergo, you, Hasria *alias* Usria wulud Bhugut, five (5) years' imprisonment, with hard labour; and you, Hunmunta wulud Mansing, three (3) years' imprisonment, with hard labour; agreeably to the provisions of Regulation XIV. of 1827, Section XXVII.

* * * * * *

The Court begs to bring to the notice of the Magistrate the inefficiency and indifference displayed by Bhojoo wulud Purvut, Police Patel of Thamuswaree, and the

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discrepancies between his evidence before this Court and before the Deputy Magistrate, and the fact of his having two warrants for his appointment, and his having omitted to report this fray, which was followed by the death of one party.

The Court also remarks that Mr. Ram Naid's proceedings show that this case, in which all the evidence was taken on 23rd February 1855, was not reviewed by the District Police Officer till 9th March 1855, was received by the Deputy Magistrate on the 15th instant, and appears to have been before him on 20th only for a short time, while three witnesses were examined, and was completed on 21st, but did not reach this Court till 2-30 P. M. on Saturday the 24th instant.

Minute recorded by Mr. A. Remington.—The Session Judge found that there had been a struggle between deceased and Hasria (prisoner No. 1), and that it preceded the assault, which was committed with a weapon near at hand. He negatived the idea of its being a drunken brawl, as the prisoners did not appear till the drinking was over; and they were both proved to be sober.

In respect to Hunmunta (prisoner No. 2), the Sessions Court described his act was one of deliberate cruelty; and the conviction against both prisoners was recorded "culpable homicide, under circumstances of unprovoked ferocity";—in other words, the prisoners were guilty of wilful murder, which, under such a view of the case, should have been recorded.

Minute recorded by Mr. W. H. Harrison.—From the evidence recorded in this case, I come to the conclusion that the deceased Bowajee, in a drunken brawl, received injuries at the hands of the prisoners, such as caused his death a few days subsequently. The circumstances do not exhibit premeditation, nor, in my opinion, the "unprovoked ferocity" attributed by the Session Judge to the

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prisoners; but such results as are common to the indulgence of ungoverned passion stimulated by drink.

The accused, I think, were rightly convicted of culpable homicide.

Resolution of the Sudder Foujdaree Adawlut.—The sentence on Hasria is mitigated to (3) three years' imprisonment, with hard labour.

The petition of Hunmunta is rejected.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

TANNA.

[Case No. 3 of the Calendar of the Konkun Sessions Court for 1855. Committed by Mr. R. H. PINHEY, Assistant Magistrate, on the 25th January 1855. Tried by Mr. C. H. CAMERON, Assistant Session Judge, on the 29th January 1855. Reviewed by Mr. R. KEAYS, Session Judge, on the 31st January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Serious Assault.

Prisoners.—No. 1, Govind Jewan Kadhoo, Bhundaree, aged 30.

2, Kashee, wife of Govind, aged 30.

Charge.—Serious assault (Regulation XIV. Section XXIX. Clause 1st, of 1827); in that they did, on Tuesday, the 10th day of October, A. D. 1854, (*i. e.* Ashwin Wud 4th, Shuké 1776,) about 10 o'clock A. M., at the hamlet of Kochewaray, of the village of Moolgaum, in the Bassein District of the Tanna Collectorate, seize and beat the prosecutrix Venoo (*alias* Muthoria), the wife of prisoner No. 1 (Govind), and did then drag her into a room, and having turned up her clothes, did, with a heated grasscutter, burn her once on the right buttock, and twice in the neighbourhood of her anus; the same occasioning her a great degree of bodily suffering, and causing a severe shock to her mental feelings.

The prisoners plead not guilty.

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Finding and Sentence by the Assistant Session Judge.—From the evidence of witnesses Vénoo (No. 2), Huree (No. 7), Lukmoo (No. 8), and Pandoo Jewan (No. 9), it is clearly proved that the two prisoners, Govind (No. 1) and Kashee (No. 2), have, being actuated by jealousy, or some other bad passion, treated a woman nearly related to them in a most disgraceful and brutal manner. The husband's second wife exposed the person of the first wife in a most shameless way, and then, with refined brutality, proceeded to brand her person. From the evidence of Sukoo, Chimee, and Pootlee (witnesses Nos. 3, 4, and 5), the report of the Jury is proved (No. 6), which shows the dangerous character of the wounds given, and also what shameless and immoral characters the prisoners at the bar must be. Before the Magistrate, the cause of this violence is explained by Huree Raoot (witness No. 7), who states that Govind (prisoner No. 1) prefers his second wife to his first, and thus the two combined to bully the first wife (complainant Venoo).

From the evidence of Nikoo Patel (witness No. 11), the Court is astonished to find that any man should have examined the person of Venoo, when women were to be had for such purpose; and the Court determines to forward this finding to the Magistrate, that he may make such arrangements as he may think fit to prevent the Joint Police Officers, Patels, and other people in authority, from acting as described in these proceedings.

On the above evidence, the prisoners Govind (No. 1) and Kashee (No. 2) are convicted of the crime charged against them; in that they did, on Tuesday, the 10th day of October, A. D. 1854, (*i. e.* Ashwin Wud 4th, Shuké 1776,) about 10 o'clock A. M., at the hamlet of Kochewaray, of the village of Moolgaum, in the Bassein District of the Tanna Collectorate, seize and beat the prosecutrix Venoo (*alias* Muthoria), the wife of prisoner No. 1 (Govind), and did then drag her into a

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room, and having turned up her clothes, did, with a heated grasscutter, burn her once on the right buttock, and twice in the neighbourhood of her anus; the same occasioning her a great degree of bodily suffering, and causing a severe shock to her mental feelings.

The Assistant Session Judge proceeds to pass the following sentence:—

That you, prisoners Govind Jewan Kadhoo, and Kashee, wife of Govind, do suffer imprisonment with hard labour, for five (5) years; and the former to receive twenty-five (25) stripes on the back at the expiration of the third month from his imprisonment, and twenty-five (25) at the expiration of the last month, before his release. (Regulation XIV. Section XXIX. Clause 1st, of 1827.)

Subject to the confirmation of the Session Judge.

Letter from the Assistant Session Judge to the Session Judge.—I do myself the honour to lay before you, for confirmation, my proceedings held in the above case, wherein the prisoners Govind Jewan Kadhoo, and Kashee, wife of Govind, have been tried and convicted before me of serious assault, and sentenced, the former to five years' imprisonment with hard labour, and to receive twenty-five stripes at the expiration of the third month, and twenty-five at the expiration of the last month, before his release; and the latter to be imprisoned for five years, with hard labour.

Reviewed by the Session Judge.—The charge is in my opinion clearly proved, and there is so much brutal cruelty in the nature of the assault committed, that I consider the punishment awarded to be most richly deserved. Conviction and sentence are confirmed.

Minute recorded by Mr. A. Remington.—The sentence should be mitigated to eighteen months' imprisonment each, with hard labour, and a flogging of twenty-five stripes on Govind Jewan.

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The second flogging should be remitted, for the reasons recorded at page 83, Vol. III. of Morris's Reports.

Minute recorded by Mr. W. H. Harrison.—The prisoners, man and wife, have been convicted of branding Venoo, another wife of prisoner No. 1 (Govind), with a hot iron, in retribution, it appears, for alleged infidelity on her part.

I should not interfere with the conviction; but the sentence is disproportionately severe, as no permanent injury seems to have been inflicted.

Resolution of the Sudder Foujdaree Adawlut.—The sentence is mitigated to eighteen months' imprisonment, with hard labour, each, and a flogging of twenty-five stripes on Govind Jewan.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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AHMEDNUGGUR.

[Case No. 17 of the Calendar of the Ahmednuggur Sessions Court for 1855. Committed by Mr. J. L. WARDEN, Assistant Magistrate, on the 3rd February 1855. Tried by Mr. J. W. WOODCOCK, Session Judge, on the 9th, 10th, and 17th March 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Rape.

Prisoner.—Deojia wulud Anajee, Mhar, aged 18.

Charge.—Rape (Regulation XIV. A. D. 1827, Section XXIX. Clause 1st); in having, on the 27th January 1855, (corresponding with the 10th Magh Shood, Shuké 1776,) in the day-time, in the jungle of the village of Dapoor, Talooka Ankolay, Zillah Ahmednuggur, made an assault upon Bheemee, wife of Chimia, a girl of about eleven years of age, and having thrown her down, committed a rape upon her, and thereby caused her a considerable degree of bodily pain.

The prisoner pleads not guilty.

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Finding and Sentence by the Session Judge.—From the evidence of the complainant Bheemee, and the witnesses Nos. 3 and 4 (Rumaoo and Nagaoo), I consider it fully proved that prisoner did commit the crime imputed to him; and it is further proved, from the evidence of Hurkoo (witness No. 9), that the foot-measures before the Court agreed with the footprints at the spot where the rape is said to have taken place. I am of opinion that prisoner has failed to prove an *alibi*. He is accordingly found guilty of rape; in having, on the 27th January 1855, (corresponding with the 10th Magh Shood, Shuké 1776,) in the day-time, in the jungle of the village of Dapoor, Talooka Ankolay, Zillah Ahmednuggur, made an assault upon Bheemee, wife of Chimia, a girl of about eleven years of age, and having thrown her down, committed a rape upon her, and thereby caused her a considerable degree of bodily pain.

And the Court passes the following sentence, under the provisions of Section XXIX. Clause 1st, Regulation XIV. A. D. 1827:—

That you, Deojia wulud Anajee, Mhar, be imprisoned and kept to hard labour in a Criminal Jail, for the term of five (5) years; and that you receive forty (40) lashes on your bare back, twenty (20) lashes at each infliction, at the close of the first and third months of your imprisonment; and at the end of your imprisonment you be released.

Minute recorded by Mr. A. Remington.—Although the only direct evidence in this case is that of the girl, complainant herself, there seems no reason for discrediting her statement. It is clear that a rape had been committed; and there is no apparent reason for Bheemee accusing the prisoner, unless he was really guilty.

The plea of *alibi* is vague, and not entitled to any consideration.

I would reject the petition.

Minute recorded by Mr. W. H. Harrison.—In this

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case the prisoner is convicted of rape on the person of Bheemee, a girl of eleven years old, who is the only direct witness to the occurrence, which she describes to have taken place as she was going to the river for water, and at a short distance from the camp of her people, who are wanderers. She asserts, that after accomplishing his purpose the prisoner left her, and that her mother-in-law and grandmother came up immediately after, and saw him running at some distance. These two women, however, depose that the prisoner was ploughing in his field close at hand, and that they went to lay hold on him; he then ran away: and before the Assistant Magistrate they told a different story altogether. The evidence of the women who examined the girl's person, and the state of her clothes, is of an unsatisfactory character, and the Civil Surgeon should have been called upon to inquire into and speak to those points; for it seems quite possible that the appearances described were the results of connexion by consent, and not of forcible carnal knowledge of the complainant.

The prisoner denied the charge from the first, pleading an *alibi*, to which he called two witnesses. Considering that there is but one witness to the alleged violence; that it occurred, as asserted, within hearing of any cries for help by the girl's family at their huts; that the attendant circumstances do not fully support the charge of rape; added to the discrepancies in the evidence, which hinder reliance on the facts in general, I should acquit the prisoner.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

Minute recorded by Mr. M. Larken.—I think the evidence proves the penetration, and that the conviction is sound.

Final Resolution of the Sudder Foujdaree Adawlut.—Sentence mitigated to two (2) years' imprisonment, with hard labour, and twenty (20) lashes.

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The Session Judge is to be told that rape is a distinct offence from an assault causing bodily suffering; and that it is unnecessary to add the latter words in the recital of a charge for rape.

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POONA.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 14 of the Criminal Return of the Magistrate of Poona for May 1854. Tried by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 15th May 1854. Reviewed by Mr. E. C. JONES, Magistrate, on the 26th July 1854. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Robbery with Force, by Night.

Prisoner.—Uroonageer Keshow Moodliar, Dravid, aged 36.

Charge.—Robbery with force, by night (Regulation XIV. of 1827, Section XXXVII. Clause 3rd); in that, under date 7th May 1854, (Wuishakh Shood 10th, Shuké 1776,) at night, in Rastia's Peit, of the city of Poona, he threw the complainant Ahilee kom Goonajee on the ground, and forcibly snatched from her person a nose-ring, made of gold and pearls, worth about Rs. 25.

Finding and Sentence by the Deputy Magistrate.—The prisoner Uroonageer is charged with having robbed the complainant of a nose-ring, and he pleads not guilty.

Except the statement of the complainant, no tangible evidence is forthcoming to substantiate the charge lodged against Uroonageer, and he cannot therefore be convicted of it.

There are certain circumstances, however, which conspire to excite suspicion against the prisoner. He names two witnesses (Nos. 5 and 6) as the parties whom he consulted about the matter at issue on the 6th May; still witness No. 6 (Mukajee) denies all knowledge of the matter, and further states, that he did not even see the prisoner on the date quoted.

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The prisoner himself admits that some altercation took place between him and the complainant on the 6th May, at 8 o'clock P. M. The complainant avers it was a hard struggle; and her statement is borne out by the testimony of the Police Peon (witness No. 2). All of a sudden the prisoner disappeared from the scene of action, and enters a house close by, probably to avoid apprehension by the Police Peon (witness No. 2), closes and bolts the door from within, so as to set the efforts of the Police towards the apprehension of the delinquent, and the detection and recovery of the missing ornament, at nought. Then, in the course of about a couple of hours, he goes to a Police Station, on the pretext of lodging a complaint against the complainant; but it cannot be conceived on what *his* complaint could reasonably be grounded. Probably he had recourse to the trick merely to screen his evil conduct, and to inflict some further injury, if possible, on the complainant.

The records of the Foujdar (vide Register No. 7), moreover, show that the prisoner is an old offender, and a very bad character.

Under the above circumstances, the prisoner is directed, as a precautionary measure, to furnish a security for his future good behaviour for a period of five (5) years, in a sum of two hundred (200) rupees, commutable to imprisonment without labour, for six (6) months. (Regulation XII. of 1827, Section XXV.)

Reviewed by the Magistrate on Appeal.—The prisoner in this case has appealed against the order of the Deputy Magistrate, directing him to give security; but the Magistrate sees no reason whatever for altering the decision above recorded.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report if he is satisfied that the petitioner be about to quit the Zillah, and if so, whether the bond might not be cancelled.

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Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning this Precept, the Magistrate has the honour to report, that from inquiries instituted by the Deputy Magistrate, it appears that the petitioner Uroonageer left Poona for Bombay about three months ago. He has neither home nor relatives at Poona, and there is therefore no one in the city who can say what his intentions really are with regard to quitting the Zillah. Under these circumstances, the Magistrate is of opinion that the bond might be cancelled.

Resolution of the Sudder Foujdaree Adawlut.—Under the Magistrate's opinion, the Court cancel the bond.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 124 of the Calendar of the Ahmedabad Sessions Court for 1854. Committed by Mr. H. B. LINDSAY, Third Assistant Magistrate, on the 22nd November 1854. Tried by Mr. H. NEWTON, Acting Session Judge, on the 24th and 26th February, and 11th April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Murder; Robbery, with Force; and Instigating and Aiding in Murder.

Prisoners.—No. 1, Vuruzlal *alias* Chunchulgur Gooroo Oodhowdas, Byragee, aged 25.
2, Motee Buloo, Kolee, aged 23.
3, Jeewa Whala, Kolee, aged 21 or 22.

Charge.—Against prisoner No. 1, murder, and robbery with force; and prisoners Nos. 2 and 3, instigating and aiding in murder, and with robbery with force; in that, on Sunday, Jésht Wud 8th, Sumvut 1910, (corresponding with June 18th, 1854,) in the day-time, within the village of Thoree Mobaruk, Purgunna Veerumgaum, Zillah Ahmedabad, they attacked, and robbed a Gosaee named Maneegur Goolabgur, and his wife Rewa, of two

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ornaments, valued at Rs. 29; and during the robbery, prisoner No. 1 struck the said Maneegur with a sword, inflicting wounds, in consequence of which he (Maneegur) died in the evening of the same day.

The prisoners plead not guilty.

Finding and Sentence by the Acting Session Judge:—The evidence against the prisoner No. 1 (Chunchulgur) is abundant, and of the most conclusive character. The deceased is shown to have left Veerumgaum in company with his wife, at 9 or 10 A. M. on the day of the assault, and to have reached the confines of the villages of Khegureea and Rehmulpoor shortly after midday, when he was attacked, and received the wounds which caused his death next day. He managed afterwards to walk to Khegureea, and immediately on his arrival gave the names of the three prisoners as his assailants to the Mookhee of that village. His wife also told the same witness (No. 12) that this prisoner had wounded her husband.

The deceased was then carried as quickly as possible back to Veerumgaum, where, on the same evening, he gave a deposition (No. 7) on solemn affirmation before the District Police Officer to the same effect; adding the further particulars that the prisoner Chunchulgur (No. 1) had wounded him, and the other two prisoners were standing by and engaged in robbing his wife of a pair of silver anklets, and a gold earring. He also stated that he had aimed several blows with his sword at the prisoner Chunchulgur, and had struck him once, but could not say on what part of the body.

The next point in evidence against this prisoner is that he was seen immediately after the assault, by three witnesses, going quickly from the scene of it towards Veerumgaum, and in company with the other two prisoners. The woman Sonee (witness No. 23) appears to have seen them first, and they came running along the road, and

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asked her for some water, as she was drawing it out of a well. She saw that the clothes of prisoner No. 1 were bloody near his right shoulder, and asked him the reason; when he said that he had had a fight with the deceased. The other two witnesses (Nos. 13 and 21) met them walking quickly along the same road, and noticed the blood on prisoner No. 1. Witness No. 13, an old man, and somewhat obtuse, says that no suspicion entered his mind; and the other deponent very naturally states, that being alone, and seeing the blood, he was afraid to ask the prisoner respecting it. The evidence of these three witnesses is liable to some objection, on the ground that they did not give their depositions until a considerable time after the assault; but the Court considers that the delay is satisfactorily accounted for. The demeanour of all was most truthful, and manifested no bias against the prisoners; on the contrary, they are ignorant or silent on points on which they might easily have injured the prisoners, had this been their wish, and no ground of malice is hinted against any of them. The woman Sonee gives a very probable reason why she did not mention what she had seen, namely that she feared lest she should be sent to Ahmedabad, and was a widow, with children left to her sole care. The deponent No. 13 also states a reason which, coming from such a man, appears quite as natural,—that he did not give information of his meeting with the prisoners because he thought that all the country knew what they had done. None of these three witnesses appear to have been questioned respecting the matter until the time when they severally stated what they knew; and the difficulty which the Court has experienced in obtaining the deposition of the woman Sonee is a sufficient evidence that she has not come forward from any zeal to speak to the prisoners' detriment. Each of these witnesses deposes to having seen Maneegur in the 'charpaee,' wounded, shortly after meeting the

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prisoners, and the Court therefore summoned the four Kolees who carried the charpaee, to test their evidence on this point. The deposition of the woman Sonee is fully borne out, although they state that they did not see her, since they show that an interval, as stated by her, elapsed between the time when the villagers of Thoree put the charpaee down in their village, and the time when they came and took it on; and to this interval Sonee speaks. With respect to the other two witnesses, the four Kolees, when first questioned, denied that they had met any one; but just as the last of their number was going out of Court, an accidental question elicited the information that he had seen the witness Moola (No. 13) near the charpaee on the day in question, near the village gate, but not on the road. The other Kolees were then recalled, and questioned similarly, but denied having seen Moola Natha at all. The Court does not, however, consider their denials to raise any question as to the veracity of the deponents Moola and Duljee. The admission of one of their number, just as he was about to leave the Court, that he saw Moola, and the correspondence between the deposition of all and that of the woman Sonee, tend more to corroborate the evidence for the prosecution than the denial of such men, respecting such a circumstance, tends to discredit it. The men manifest an apathy which would be scarcely credible to one not accustomed to such investigations. No one of their number knows the name of the deceased; and three of them do not know whether he was wounded or not, though they carried him almost in a dying state for 2 koss! It is most easily conceivable that men of this character may have forgotten or have failed to notice their casually meeting, some ten months ago, one man who is known to some of them, and another who was unknown to all; while it is almost incredible that they could have carried the charpaee, as stated by them, for

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2 koss, along a frequented road to such a populous town as Veerumgaum, at 3 P. M., without meeting a single person. The conclusion to which the Acting Session Judge is led by these considerations is, that the testimony of the deponents Nos. 13, 21, and 23 is trustworthy, and unaffected either by their delay in coming forward, or by the opposite statement of some of the charpaee bearers.

The next point in evidence against prisoner No. 1 is his capture. He could not be found until three months after the assault, when he was traced about to various places by the deponent No. 14, and apprehended by the Subedar and Peons of the Kolee Police Corps, whose depositions are recorded Nos. 15 and 16. The circumstances of his apprehension, his apparent concealment and flight at the first sight of the Police, would leave little doubt of his criminality; and on being taken immediately before the District Deputy Magistrate, he made the statement recorded No. 29, admitting that he had been wandering for the preceding three months from one place to another, in order to escape apprehension, which he had been led to fear, from having heard from some one unknown that the deceased Maneegur had charged him with the murder. When his person was examined, immediately after his seizure, the scar of a sword-wound not yet thoroughly healed was found on his left shoulder; this accounting for the blood which the three witnesses who met him on the road saw on or about that part of his person, and confirming the deposition of the deceased, that he inflicted one wound.

Against the prisoners Motee and Jeewa (Nos. 2 and 3) there is the following evidence:—The deceased Maneegur is proved to have given their names immediately after the assault and robbery to the Mookhee of Khegureea, and on being carried to Veerumgaum, he on the same day gave a deposition on solemn affirmation before the District Police Officer, in the presence of these pri-

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soners, who had been apprehended and brought before him in consequence of the statement which he first made. In that deposition he charged them with having robbed his wife, and been standing by, armed with swords, while Chunchulgur inflicted on him the wounds which caused his death. As they were residents of his village, and are shown to have been acquainted with him, and as the assault occurred at midday, there is no ground for supposing that Maneegur could have fallen into error respecting their identity; and doubt as to his veracity is equally barred under the circumstances in which his deposition was given.

The testimony of Maneegur receives all needed confirmation from the witnesses Nos. 13, 21, and 23, who depose that they met these prisoners in company with prisoner No. 1, going quickly towards Veerumgaum, immediately after the assault, and from the direction of the place where it occurred. The two first knew the prisoners, (No. 13 knew them from childhood,) and positively identify them; the last, though previously unacquainted with them, identified them with equal positiveness before the Police and Magisterial Authorities, but hesitated first before the Court to say more than that they were like the two men, to whom she gave water, in company with prisoner No. 1. When further questioned, however, she stated before the Court her conviction that these are the men; and while, therefore, her testimony alone would leave little doubt as to their identity, its value is established by her disinclination to depose decisively against them.

The prisoners Nos. 2 and 3 are also shown to have known each other, if not to have been intimate, and to have gone at times to deceased Maneegur's house.

They have brought forward four witnesses of their own caste, to prove that they were in Veerumgaum at the time of the assault; and these witnesses stated that

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they and the prisoners were together several hours on a day which, in one way or other, they show to be the day of the assault. They all depose that these prisoners were with them till 3 P. M.; and there is too striking a correspondence between their statements, and too great a pertinacity exhibited by them in their testimony on this point, while they vary as to the time at which the prisoners arrived at the house where they met them, one stating the hour at 7 A. M., and another as after 9, or 10½ A. M. The deposition of one of them (witness No. 34) is thoroughly worthless, from the contradictions pointed out. He admits himself to be in error in every point except that of his having seen the prisoners till 3 P. M.; but on this he will not admit a question. The Assistant Magistrate has elicited other differences between the depositions of these witnesses; but while the Court would not lay much stress on these discrepancies, it considers that the evidence of such deponents is insufficient to affect the testimony of Maneegur, and the other witnesses on the prosecution. One circumstance alone is fatal to it. On the 20th June, *i. e.* the day after Maneegur's death, both prisoners were examined by the Joint Police Officer, when Motee (prisoner No. 2) said that on the day of the assault he had been walking about in the village, but did not recollect at what place he had sat down, or at what time, and that he had no witnesses; the prisoner No. 3 (Jeewa) also said that he had no witnesses. The present plea was not mentioned, or the witnesses named, till July 11th last, or twenty-three days after the assault. It cannot be supposed that each prisoner, if he had been, as now urged, several hours engaged in a particular ceremony at the house of a friend, could have forgotten the circumstance when examined two days afterwards, and after a lapse of more than three weeks have remembered it. There is also some improbability in the statement that six men should

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have been uninterruptedly engaged for several hours in preparing and smoking tobacco; and it should be remarked, that as the assault took place but 2 koss (and the koss here is very short) from Veerumgaum, the prisoner might have been present at the assault if a change of two or three hours were made, either earlier or later, in the time given for the assault, and that of the prisoners' arrival at Dulla's house and departure from it.

To the above evidence might have been added the deposition of the deceased Maneegur's wife, had she not evidently perjured herself in order to screen her husband's murderer. She is shown to have given the names of the prisoners Nos. 2 and 3 to the Mookhee of Khiegureea immediately (perhaps half an hour or an hour) after the assault, and to have stated that Motee (prisoner No. 2) had taken off her anklets, and Jeewa (prisoner No. 3) her earrings. She also admits that she told her sister Goolab that she had mentioned the names of the men who robbed her to the District Police Officer, which however Goolab, with the view, apparently, of saving her, denies.

The Court has endeavoured to procure the attendance of the Police who apprehended the prisoners Motee (No. 2) and Jeewa (No. 3), but without success. It has not appeared desirable further to delay the case for them, as their evidence would be of little moment. It is shown that these prisoners were apprehended in their houses on the evening of the assault.

From the evidence above considered, the Acting Session Judge considers the guilt of all the prisoners established. The circumstances of the assault, and the deposition of the deceased Maneegur's wife, lead the Court to suppose that robbery was not the object, but merely a ruse to save the reputation of this woman, whose husband the prisoner Chunchulgur (No. 1) had determined to murder. Conclusive evidence is not

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attainable to show that this prisoner and deceased's wife carried on an adulterous intercourse. As deceased was not examined on the point, the Court has recorded evidence respecting his having told his brother Jetheegur (witness No. 10) that he suspected such adultery, and had therefore forbidden Chunchulgur to come to his house; and the other brother (witness No. 9), though admitting that he has no evidence on the point, states that the matter is notorious. No violence was used towards Rewa when her ornaments were taken off, while Chunchulgur (prisoner No. 1) employed himself solely in murdering the deceased, from whom nothing was taken. As already noticed, Rewa has been sent to the Magistrate, for the preparation of a charge of perjury against her. Jetheegur alluded before the Police Authorities to some threats which had been uttered against Maneegur by prisoners Nos. 2 and 3; but the Court found that he stated them merely from hearsay, and therefore did not record them.

The Court notices that the act with which the prisoners Nos. 2 and 3 are charged constitutes murder under the Regulations, which make no difference between the commission and "the assisting in any unlawful act, the perpetration of which is accompanied with the death of a human being." That these prisoners did assist in the perpetration of an unlawful act so accompanied is proved, and the Court questions whether "aiding in murder" is contemplated in the Regulations as a distinct offence. Since, however, the point was not noticed until too late to obtain an alteration of the charge by the Magistrate, while the Court doubts whether it is authorised to make the change in the specification of the crime, though the act charged remains the same; and since, on the other hand, the Court finds, on reference to other cases recorded, in which the Judges of the Sudder Foujdaree Adawlut have convicted of "aiding in murder," which is punishable equally with murder, the Court convicts the

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prisoner No. 1 (Chunchulgur) of murder, and robbery with force; and the prisoners Nos. 2 and 3 (Motee and Jeewa) of aiding in murder, and of robbery with force; in that, on Sunday, Jésht Wud 8th, Sumvut 1910, (corresponding with June 18th, 1854,) in the day-time, within the village of Thoree Mobaruk, Purgunna Veerumgaum, Zillah Ahmedabad, they attacked and robbed a Gosaee named Maneegur Goolabgur, and his wife Rewa, of two ornaments, valued at Rs. 29; and during the robbery, prisoner No. 1 struck the said Maneegur with a sword, inflicting wounds, in consequence of which he (Maneegur) died in the evening of the same day.

And having thus convicted the prisoners, the Court passes the following sentences, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut:—

That you, prisoner No. 1 (Vuruzlal *alias* Chunchulgur Gooroo Oodhowdas), be hanged by the neck till you be dead, at the usual place of execution at Ahmedabad. (Regulation XIV. of 1827, Section XXVI. Clause 4th.)

And that you, prisoners No. 2 (Motee) and No. 3 (Jeewa Whala), be each transported beyond seas, for the term of your natural lives. (Regulation XIV. of 1827, Section XXVI., and Section I. Clause 5th.)

* * * * * *

The Court notices that the deposition of the deceased Maneegur contains matter which must evidently have been put into his mouth by the Officer who took it. A man mortally wounded, and within a few hours of death, is made to describe, almost with the accuracy of a medical practitioner called in to examine another, the length, and breadth, and depth, and situation of each of the six wounds which had been inflicted on him. If it be admitted that he had sufficient fortitude and power of endurance to examine and report on the wounds on his hands and arms, it was still manifestly impossible for

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him to state from personal observation (and everything else should be carefully excluded from a deposition) that he had "a wound on the right side of his head, two 'tusoos' (finger-joints) long, half a tusoo broad, and half a tusoo deep," or that he had another "on the right temple, five tusoos long, three deep, and three broad." It is found, also, that after the deceased had thus probed and described his wounds on the day of the assault, the Members of the Inquest which assembled next day on the dead body give the same length, and breadth, and depth of each wound, without a single variation of even half a tusoo. Disclosures of this kind raise a fear that Police Officers too frequently write down in their own words, and not in those of the witness merely, the general impression which they receive from the deposition given; and the Acting Session Judge has often felt a difficulty, arising from this fear. In a District Police Officer, this ignorance or breach of his duty is very censurable; and had not the statements of the deceased on other points been confirmed on unexceptionable evidence, his alleged dying declaration might have been liable to much question, and the evidence in a serious case very unfavourably affected.

Resolution of the Sudder Foujdaree Adawlut.—The convictions are confirmed.

The sentences on prisoners Motee (No. 2) and Jeewa (No. 3) are confirmed.

The Session Judge considered that the District Police Officer put more detail into the dying declaration than could possibly have been deposed to by the deceased; and the Court, holding this to be unquestionably the case, are further of opinion that this, the only direct evidence against the prisoners, must be accepted with caution, as being the statement of a person at deadly enmity with the prisoner Vuruzlal (No. 1); and under the possibility that the deceased may have provoked the

assault, the Court refrain from comfirming the capital sentence, and sentence Vuruzlal (prisoner No. 1) to transportation for life.

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The Session Judge is to be informed that he was right in considering that the prisoners Motee and Jeewa should have been charged with murder; and the Court request that his admonition to the Subedar of the Koolee Corps, recorded at page 21 of the English record, be communicated to the Superintendent of Police.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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[Case No. 10 of the Calendar of the Ahmednuggur Sessions Court for 1855. Committed by Rao Bahadoor DADOBA PANDOORUNG, Deputy Magistrate, on the 11th January 1855. Tried by Mr. J. W. WOODCOCK, Session Judge, on the 27th February, and 2nd, 3rd, and 15th March 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners Chimajee wulud Nubajee, and fourteen others.]

Prisoners.—No. 1, Chimajee wulud Nubajee, Bheel, aged 35.
2, Luxumon wulud Nubajee, Bheel, aged 29.
3, Jaya wulud Nubajee, Bheel, aged 25.
4, Deyoo wulud Luximon, Bheel, aged 25.
5, Chooramon wulud Bala, Bheel, aged 35.
6, Pandoo wulud Purushram, Bheel, aged 25.
7, Govinda wulud Purushram, Bheel, aged 24.
8, Bapoo wulud Chooramon, Bheel, aged 30.

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Prisoners.—No. 9, Gungaram wulud Dewalajee, Bheel, aged 27.
10, Hunmunta wulud Anundrao, Bheel, aged 30.
11, Koosia wulud Yesoo, Bheel, aged 15.
12, Dajee wulud Dhurma, Bheel, aged 30.
13, Bapoo wulud Munajee, Bheel, aged 25.
14, Mohona wulud Koosa, Bheel, aged 25.
5, Babajee wulud Andoo, Koonbee, aged 30.
16, Aba wulud Jyram, Koonbee, aged 18.

Charge.—Against prisoners Nos. 1 to 14, gang robbery by night, with force (Regulation XIV. Section XXXVI. Clauses 1st and 3rd, of 1827); in having, on or about the 27th October 1854, (corresponding with Kartik Shood 6th, Shuké 1776,) at night, in Kusba Bodhegaom, Talooka Sheogaom, Zillah Ahmednuggur, in company with others not yet apprehended, armed with swords, hatchets, matchlocks, and sticks, forcibly entered the dwelling-house of one Mhadoo wulud Trimbuka, and having first assaulted and beat with sticks the said Mhadoo, his wife, and daughter-in-law, taken away therefrom gold and silver ornaments, ready cash Rs. 652-3-0, copper and brass pots, wearing apparel, and sundry other articles, all amounting in value to about Rs. 2,339-1-0, the property of the said Mhadoo wulud Trimbuka.

Against prisoner No. 15, receiving property, knowing, or having evident grounds for suspecting it to have been stolen (Regulation XIV. Section XLI. Clause 1st, of 1827); in having, on the 28th October 1854, (corres-

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ponding with Kartik Shood 7th, Shuké 1776,) in the jungle of Moujé Malehgaom, in the territory of His Highness the Nizam, received from prisoner No. 1, one gold ring, and some silver ornaments, &c., valued at or about Rs. 26-2-0, forming part of the above stolen property, knowing, or having evident grounds to suspect the same to be stolen.

Also further charged, together with prisoner No. 16, under Regulation XIV. Section I. Clause 5th, of 1827, with aiding and instigating in the commission of the above gang robbery; in having, exact date unknown, but about the month of August 1854, previous to the date on which the above gang robbery took place, in Kusba Bodhegaom, Talooka Sheogaom, Zillah Ahmednuggur, in furtherance of the consultation previously held, pointed out to prisoner No. 2 the house of the complainant Mhadoo, in which this robbery took place.

The above charges are read and explained to the prisoners, and they, being asked whether they plead guilty or not guilty to the charge, prisoners Nos. 1 to 14 plead guilty, and Nos. 15 and 16 not guilty.

Finding and Sentence by the Session Judge.—The prisoners Nos. 1 to 14 (Chimajee, Luxumon, Jaya, Deyoo, Chooramon, Pandoo, Govinda, Bapoo, Gungaram, Hunmunta, Koosia, Dajee, Bapoo, and Mohona) are charged with gang robbery by night, with force; and even before the Sessions Court they have persisted in their plea of guilty, and they have also produced the stolen property in evidence before the Court. In their defence, they set up a plea that they were instigated by prisoners Nos. 15 and 16 (Babajee and Aba) to the committal; but this plea cannot be admitted in mitigation of punishment, which the Court is of opinion ought to be severe, looking at the number of the gang, the amount of property stolen, and the force used. The prisoners are accordingly found guilty of gang robbery by night, with

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force; in having, on or about the 27th October 1854, (corresponding with Kartik Shood 6th, Shuké 1776,) at night, in Kusba Bodhegaom, Talooka Sheogaom, Zillah Ahmednuggur, in company with others not yet apprehended, armed with swords, hatchets, matchlocks, and sticks, forcibly entered the dwelling-house of one Mhadoo wulud Trimbuka, and having first assaulted and beat with sticks the said Mhadoo, his wife, and daughter-in-law, taken away therefrom gold and silver ornaments, ready cash Rs. 652-3-0, copper and brass pots, wearing apparel, and sundry other articles, all amounting in value to about Rs. 2,339-1-0, the property of the said Mhadoo wulud Trimbuka.

Prisoner No. 15 (Babajee) is charged with receiving property, knowing, or having evident grounds for suspecting it to have been stolen; and aiding in the aforesaid gang robbery. Against him there is his confession, made in the first instance before the Mamlutdar, and confirmed before the Deputy Magistrate as to the receipt of the stolen property. The confession he retracts before the Sessions Court; but it is fully corroborated by the evidence of the witnesses Nos. 9, 10, 11, and 12 (Sukoo, Bapoojee, Bhikajee, and Huree), and Hubajee (witness No. 4) deposes that prisoner in his presence admitted that he had received the stolen property, and had aided in the robbery. In his defence before the Sessions Court, he sets up a plea that he had to receive some grain from prisoner No. 1 (Chimajee), on which account he (Chimajee) brought him some of the stolen property, and he supposed that it was in lieu of the grain; but the Court remarks that as Chimajee is a Bheel, Babajee must have well known that he could not have come honestly by such things. For these reasons the Court finds the prisoner guilty of receiving property, knowing, or having evident grounds for suspecting it to have been stolen; in having, on the 28th October 1854, (corresponding with Kartik Shood 7th, Shuké 1776,) in the jungle of

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Moujé Malehgaom, in the territory of His Highness the Nizam, received from prisoner No. 1 (Chimajee), one gold ring, and some silver ornaments, &c., valued at or about Rs. 26-2-0, forming part of the above stolen property, knowing, or having evident grounds to suspect the same to be stolen; and further, of aiding and instigating in the commission of the above gang robbery; in having, exact date not known, but about the month of August 1854, previous to the date on which the above gang robbery took place in Kusba Bodhegaom, Talooka Sheogaom, Zillah Ahmednuggur, in furtherance of the consultation previously held, pointed out to prisoner No. 2 the house of the complainant Mhadoo, in which this robbery took place.

And the Court passes the following sentence, under the provisions of Regulation XIV. of 1827, Section XXXVII. Clause 1st, Section I. Clause 5th, and Section XLI. Clause 1st:—

That you, prisoners Chimajee wulud Nubajee (No. 1), Luxumon wulud Nubajee (No. 2), Jaya wulud Nubajee (No. 3), Deyoo wulud Luximon (No. 4), Chooramon wulud Bala (No. 5), Pandoo wulud Purushram (No. 6), Govinda wulud Purushram (No. 7), Bapoo wulud Chooramon (No. 8), Gungaram wulud Dewalajee (No. 9), Hunmunta wulud Anundrao (No. 10), Koosia wulud Yesoo (No. 11), Dajee wulud Dhurma (No. 12), Bapoo wulud Munajee (No. 13), Mohona wulud Koosa (No. 14), Bheels, and Babajee wulud Andoo, Koonbee (No. 15), be each imprisoned and kept to hard labour, for the term of seven (7) years; and further, that you jointly and severally pay a fine of Rs. 2,106-4-4, the amount of loss which appears to have been sustained by complainant in addition to the amount of stolen property recovered, and in evidence before the Court, which fine, if recovered, is to be paid to him, and if not paid immediately, is to be levied by distress and sale of your property, under the provisions of Act No. XVI. of 1850.

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With regard to prisoner No. 16 (Aba), the Court will defer judgment.

* * * * * *

The prisoner No. 16 (Aba wulud Jyram) in Case No. 10 of 1855, brought to a close on the 15th instant, is again placed at the bar, and the Court proceeds to pass judgment upon him.

The principal actor in this case appears to have been Aba; but he denies the charge against him, which is that he aided and instigated the other prisoners to the commission of gang robbery by night, with force.

The evidence of the three men who apprehended him has been taken, namely witnesses Nos. 5, 6, and 14 (Mhyputee, Govinda and Mhusoo). There is some discrepancy in their statements; but they concur in saying that he (Aba) told them if they apprehended Chimajee (prisoner No. 1) they would find the stolen property; and having apprehended Chimajee, they (the witnesses) found the stolen property, as Aba had said. For these reasons the Court finds the prisoner guilty of aiding in, and instigating to the committal of, gang robbery by night, with force; in having, exact date unknown, but about the month of August 1854, previous to the date on which the above gang robbery took place in Kusba Bodhegaom, Talooka Sheogaom, Zillah Ahmednuggur, in furtherance of the consultation previously held, pointed out to prisoner No. 2 the house of the complainant Mhadoo, in which this robbery took place.

And the Court passes the following sentence, under the provisions of Section I. Clause 5th, Regulation XIV. A. D. 1827:—

That you, Aba wulud Jyram, Koonbee, be imprisoned and kept to hard labour, for the term of five (5) years; and also that your bear your share of the fine imposed upon the other prisoners, under the provisions of Act No. XVI. of 1850.

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Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected. The prisoner Aba wulud Jyram (No. 16) has not petitioned the Court, but the charge against him is not substantiated, and his conviction and sentence are annulled, and he is to be discharged.

The Session Judge is to be reminded, that the Court have already remarked that the substance of retracted confessions should be entered on his English record.

The Court direct the fine imposed upon the witness Sukoo (No. 8) to be remitted, as the Session Judge is not authorised by law to fine a witness for contradictions in depositions.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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TANNA.

[Case No. 60 of the Calendar of the Konkun Sessions Court for 1854. Committed by Mr. R. H. PINHEY, Assistant Magistrate, on the 22nd August 1854. Tried by Mr. R. KEAYS, Session Judge, on the 28th and 30th August 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Sukoo bin Mowjee.]

Robbery with Force, by Night.

Prisoners.—No. 1, Sukoo bin Mowjee, Kolee, aged 32.
2, Huree bin Abajee, Kolee, aged 32.
3, Aba bin Kristnajee, Kolee, aged 38.
4, Rama Lokhunda (father's name unknown), Kolee, aged 22.

Charge.—Robbery with force, by night (Regulation XIV. Section XXXVII. Clause 3rd, of 1827); in that they did, on the night of Wednesday the 10th day of May A. D. 1854, (corresponding with Wuishakh Shood 13th, Shuké 1776,) at the village of Pautsghur, in the Mokada Péta of the Kolwan Talooka, of the Konkun

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Zillah, rob three persons, named Huree Aveechul, Oomed Oogurchund, and Dhondee Rehmon, who were sleeping in the veranda of the house of one Ambo Wara, at the village of Pautsghur aforesaid, of clothes and other articles, valued at Rs. 15, as well as bonds and other papers, the property of Oomed Oogurchund, valued at Rs. 7,000; and in that they did, at the same time and place, beat with a stick Oomed Oogurchund, and with a sword cut off the nose and ears of Huree Aveechul, and otherwise gashed him.

Finding and Sentence by the Session Judge.—The prisoners are accused of robbery by night, accompanied by force, in the instance set forth in the indictment which heads these proceedings.

From the evidence it appears that, on the night of the robbery, the three complainants and about fifteen others were asleep in a 'mandwa' before the house of Ambo Wara, in the village of Pautsghur, where they were attacked by some robbers, one of whom commenced beating complainant Oomed with a stick. He called out, and this awoke the rest of the party, who, being frightened, one and all attempted to effect their escape, and ran away, one in one direction and one in another. The complainant Hureechund, however, was pursued and captured by one of the robbers, and brought back to the mandwa, where, assisted by another, they rendered him the miserable mutilated object he appeared before the Court. The robbers then took away his clothes, bonds, and account books, together with some other clothes they found in the mandwa, and effected their escape.

The question now to be considered is, whether the prisoners at the bar were the perpetrators of this atrocious assault and robbery.

The Court here remarks that the robbery occurred about two days before the full of the moon, and the witnesses declare that it was broad moonlight at the time.

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The complainant Hureechund distinctly recognized the prisoner No. 1 (Sukoo), who was the person who pursued and brought him back to the mandwa, where, assisted by the prisoner Huree, he cut off his nose and ears, the other two prisoners, No. 3 (Aba) and No. 4 (Rama), standing by at the time.

The complainant Oomed, having concealed himself about twenty-five paces from the mandwa, says he distinctly recognized prisoner No. 1 (Sukoo), No. 2 (Huree), and No. 4 (Rama), by their voices; and two other witnesses (No. 8 and No. 9) recognized the prisoner Sukoo at the time of the robbery; and the complainant Hureechund mentioned the prisoners at the bar as the perpetrators of the deed, on giving information to the Police.

They were accordingly taken into custody, and the prisoner Rama (No. 4) confessed, and admitted that he and the other three prisoners committed the assault and robbery, and pointed out to the Subedar of Police the spot where they had burnt the account books and bonds; and from the statement of the Subedar, it appears that the stones in that spot appeared to have been recently exposed to fire. As the prisoners Sukoo and Huree were brought into such close contact with complainant Hureechund, the Court is of opinion that, corroborated as his statement is by those of others, and the confession of the prisoner Rama, there can be no doubt of the identity of three prisoners. The evidence also seems sufficiently corroborative of the prisoner Rama's confession to uphold a conviction against him.

Against the prisoner No. 3 (Aba), the Court is of opinion that there is not sufficient evidence; this prisoner is therefore acquitted, and discharged from the bar.

The prisoners No. 1 (Sukoo), No. 2 (Huree), and No. 4 (Rama) are convicted of robbery with force, by night; in that they did, on the night of Wednesday,

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TANNA.

Robbery with Force, by Night.

the 10th day of May, A. D. 1854, (corresponding with Wuishakh Shood 13th, Shuké 1776,) at the village of Pautsghur, in the Mokada Péta of the Kolwan Talooka, of the Konkun Zillah, rob three persons, named Hurce Aveechul, Oomed Oogurchund, and Dhondee Rehmon, who were sleeping in the veranda of the house of one Ambo Wara, at the village of Pautsghur aforesaid, of clothes and other articles, valued at Rs. 15, as well as bonds and other papers, the property of Oomed Oogurchund, valued at Rs. 7,000; and in that they did, at the same time and place, beat with a stick Oomed Oogurchund, and with a sword cut off the nose and ears of Huree Aveechul, and otherwise gashed him.

In considering the punishment to be awarded for this offence, the Court observes that this is one of those cases arising from revenge and ill-feeling between debtors and creditors. The complainants are Wanees, who were making a tour, collecting their debts; and it is in evidence that they had recently obtained from the prisoner No. 1 (Sukoo) some family ornaments, in part payment of his debt to them; and that when he took them away, the prisoner Sukoo used threatening language towards them. The Court is therefore of opinion that the prisoner No. 1 (Sukoo) was the instigator of the robbery, and leader of the gang,—therefore the punishment which the Court will award him will be greater than in the case of the other two prisoners; but justice demands that the punishment of all should be very severe, therefore the following sentence is passed:—

That you, prisoner No. 1 (Sukoo bin Mowjee), do suffer imprisonment for a period of six (6) years and two (2) months, that is to say six (6) years' imprisonment with hard labour, and the thirteenth and seventy-fourth months of your imprisonment in solitary confinement.

That you, prisoner No. 2 (Huree bin Abajee), and

you, prisoner No. 4 (Rama Lokhunda, father's name unknown), be imprisoned and kept to hard labour, for a period of four (4) years. (Regulation XIV. of 1827, Section XXXVII. Clause 3rd.)

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TANNA.

Robbery with Force, by Night.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Court consider that the sentence is most inadequate; Sukoo should have been transported.* His atrocious assault deserved such a punishment; and the Bangrias might be deterred from such crimes, had the Session Judge really treated the offence with the severity he professed.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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RUTNAGHERRY.

[Case No. 4 of the Calendar of the Rutnagherry Sessions Court for 1855. Committed by Mr. J. H. TROTT, Deputy Magistrate, on the 31st March 1855. Tried by Mr. C. M. HARRISON, Session Judge, on the 20th, 21st, 23rd, 24th, and 25th April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoners.—No. 1, Lada bin Luxumun, Patker, aged 35.

Murder.

2, Son Palow bin Mun Palow, Mahratta, aged 42.

3, Kan Palow bin Seo Palow, Mahratta, aged 50.

4, Sabajee bin Kaloo oorf Luxumun Golutkur, Bhundaree, aged 27.

* It was given in evidence by Huree Aveechul, that the prisoner Sukoo had given him a pair of 'vela' (ear ornaments), and a 'gota' (neck-ornament), in payment of his debt; and that he had said at the time of giving them, "It is not the time to say what I shall do hereafter; but I am of the house of Bangria, and I will see about it eight or ten days hence."

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RUTNAGHERRY.

Murder.

Prisoners.—No. 5, Yesoo bin Bhudjee Moongekur, Bhundaree, aged 19.
6, Kasee bin Son Palow Moondlekur, Mahratta, aged 26.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, at about half-past 7 o'clock at night, on Monday, the 19th February 1855, (Mitee Falgoon Shood 3rd, Shuké 1776,) in Tikan Ghareebabud, situated in Moujé Wudaché Patt, Turuf Malondee, Talooka Malwun, in the Rutnagherry Magistracy, wilfully, and without justifiable or extenuating cause, murdered Babjee bin Luxshmun, Gang Naiqúe, inhabitant of Malwun village, by beating him on different parts of his body with their fists, as well as with sticks, and by strangling the deceased with their hands; from which maltreatment the deceased died then and there.

Finding and Sentence by the Session Judge.—The prisoners in this case are charged with murder, and severally plead not guilty.

The circumstances which preceded and led to the perpetration of the murder can hardly be better stated than in the following extract from the proceedings of the Deputy Magistrate, Mr. Trott, by whom the case was committed for trial:—"A dispute had for some time existed between prisoner No. 1 (Lada) and the deceased Babjee, regarding some landed property, which the latter succeeded in getting possession of under decrees of the Civil Courts. On Sunday, the 18th February 1855, deceased Babjee set out from Malwun, and proceeded to Wudaché Patt, with the view of having the 'tikan' Beriachéwad entered in his name in a receipt-book which was taken by him for the purpose, as the tikan before stood in the name of prisoner No. 1 (Lada). The deceased Babjee arrived at Wudaché Patt on Sunday, and, as usual, he put up with Rugoo Patkur (witness No. 10), and on the following day, Monday, the 19th February

1855, after having taken his midday meal, went to the abode of the Tulatee, Antajee Narayen (witness No. 11), for the purpose of having the land entered in his name, and did not thence return to Rugoo's house up to half-past 2 (or 3) o'clock P. M. The deceased was with the Tulatee, but the entry was not made in his receipt-book, as a reference had been made on the subject to the Mamlutdar. The Tulatee left Wudaché Patt for his village, Wowuleeye, at half-past 2 P. M., leaving the deceased in the village, from whence he appears to have been decoyed away to the place where he was murdered, as set forth in the indictment."

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RUTNAGHERRY.

Murder.

How the deceased Babjee passed the time between the departure of the Tulatee and the hour when he is next heard of, at the scene of the murder, under the mangoosteen tree, 130 'katya' (the katee is about 3 yards) from the Tulatee's lodging, does not appear; but he is shown to have been there with all the prisoners at about half-past 7 P. M., and to have been entertained by them with fowl curry, bread, and liquor, and then to have been suddenly set upon and cruelly murdered, by strangulation, kicks, and blows.

After perpetrating the deed, they carried him by a bye-path 34 katya to a jack tree, where, probably in consequence of their falling in with the witnesses Bhees Palow and Gungajee (Nos. 8 and 9), the body was put down for a time, and afterwards again taken up, and conveyed to a place called Ferungee Baug, situated within the limits of Malgaon, and there deposited under a mango tree.

This spot is on the direct route from where the deceased was lodging at Wudaché Patt to his own village (Malwun), and being laid on one-half of a 'dhotur,' it was covered with the other half, a bottle of liquor being tied up in the corner, and placed by his head, in order, apparently, to make it appear that he had been drinking, and died of intoxication.

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Murder.

The injuries described by the Members of the Inquest held on the body of the deceased, in their report recorded for the prosecution (No. 3), and the evidence of the Police Kamgar (witness No. 5), leave no doubt of his having been murdered; and it only remains, therefore, to be seen whether the prisoners are the parties who perpetrated the crime.

Although they pleaded not guilty, prisoners Nos. 1 to 5, on hearing their confessions made before the Police read over, admitted them (with the exceptions in the case of prisoners Nos. 1 and 5, recorded below them) to be true, and these implicate prisoners Nos. 1 and 5 (Lada and Yesoo) as principals, and prisoners Nos. 2, 3, and 4 (Son Palow, Kan Palow, and Sabajee) as accessaries after the fact. In the case of prisoners Nos. 1, 2, and 3 (Lada, Son Palow, and Kan Palow), these confessions are corroborated by the evidence of the witnesses Bhees Palow and Gungajee (Nos. 8 and 9), who, having gone to water their crop at night, saw them carrying the body towards the place where it was found, and put it down under a jack tree; and their evidence to this effect is further confirmed by the fact of drops of blood having been found on the spot pointed out by them as that on which it was put down (see the evidence of the Police Kamgar, and Luxshumun bin Gungajee, witnesses Nos. 5 and 7).

Prisoner No. 6 (Kasee) admits that he went to the spot when the murder was committed, and there, in company with the other prisoners, and the deceased, having drunk (he states) too much liquor, he became intoxicated, and does not know what subsequently took place. But the witnesses Bhees Palow and Gungajee positively affirm that he was one of the party they saw carrying the body on the night of the murder; conclusively showing, that so much of his statement as relates to his having been incapacitated by drunkenness from observing what occurred is not true.

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Prisoners Nos. 1, 2, and 3 (Lada, Son Palow, and Kan Palow) make no defence, and prisoners Nos. 4, 5, and 6 (Sabajee, Yesoo, and Kasee) merely state that prisoners Nos. 2 and 3 (Son Palow and Kan Palow), being the Gaonkur and Foujdar of the village, they considered themselves bound to obey them.

Under the above circumstances, entertaining no doubt of their guilt, prisoners Nos. 1 and 5 (Lada and Yesoo) are convicted of murder; in having, at about half-past 7 o'clock at night on Monday, the 19th February 1855, (Mitee Falgoon Shood 3rd, Shuké 1776,) in Tikan Ghareebabud, situated in Moujé Wudaché Patt, Turuf Malondee, Talooka Malwun, in the Rutnagherry Magistracy, wilfully, and without justifiable or extenuating cause, murdered Babjee bin Luxshmun, Gang Naique, inhabitant of Malwun village, by beating him on different parts of his body with their fists, as well as with sticks, and by strangling the deceased with their hands; from which maltreatment the deceased died then and there; and prisoners Nos. 2, 3, 4, and 6 (Son Palow, Kan Palow, Sabajee, and Kasee), of concealment of murder after the fact, as admitted by themselves, and as proved by the evidence of the witnesses Nos. 8 and 9 (Bhees Palow and Gungajee); viz. prisoner No. 2 (Son Palow), in having seen the murder committed, assisted in carrying off the body, and given no information thereof to the Police; prisoner No. 3 (Kan Palow), in having assisted in carrying off the body, and, being aware of the circumstances of the murder, although Foujdar of his village, given no notice of it to the Police; and prisoners Nos. 4 and 6 (Sabajee, and Kasee), in having assisted in carrying off the body, and in the attempt made to conceal the murder, by making it appear the deceased died a natural death.

Little doubt can be entertained of these last-named prisoners having acted a much more conspicuous part

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in this bloody drama than they confess to; but statements made by one prisoner implicating another are not (as the Deputy Magistrate erroneously imagines) evidence, and otherwise, that recorded in the case is insufficient to convict them as principals.

After maturely considering the nature of the offences committed, and the punishments provided for the same by Regulation XIV. of 1827, Section XXVI. Clause 4th, and Section I. Clause 5th, the following sentence is passed :—

That you, Lada bin Luxumun, Patker, be hanged by the neck until you be dead, at the usual place of execution at Rutnagherry; and that you, Son Palow bin Mun Palow, Kan Palow bin Seo Palow, Sabajee bin Kaloo *alias* Luxumun Golutkur, Yesoo bin Bhudjee, and Kasee bin Son Palow, be each of you transported beyond seas, for the term of your natural lives. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

* * * * * *

This case has been very creditably prepared by the Deputy Magistrate, Mr. Trott; but he should be informed that it would have been well to have taken the evidence of the party in whose house the Tulatee lodged as to the deceased's movements after he left, and also that the statement of one prisoner implicating another is not evidence.

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I do myself the honour to forward, for the purpose of being laid before the Judges of the Sudder Foujdaree Adawlut, a counterpart of my proceedings held in Case No. 4 of the Rutnagherry Calendar, dated the 17th instant, wherein the prisoners, having been tried before me of murder, prisoners Nos. 1 and 5 were convicted of the same offence, and prisoners Nos. 2 to 4, and 6, of concealment of murder after the

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fact, and sentenced, prisoner No. 1 to be hanged by the neck until he be dead, at the usual place of execution at Rutnagherry, and prisoners Nos. 2 to 6, to transportation beyond seas, for the term of their natural lives, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The convictions of the first five prisoners are confirmed.

The sentences on prisoners Lada (No. 1), Son Palow (No. 2), Kan Palow (No. 3), and Yesoo (No. 5), are confirmed.

The prisoner Sabajee (No. 4) is sentenced to seven years' imprisonment, with hard labour.

The Court are of opinion that the evidence does not establish the guilt of the prisoner Kasee (No. 6), and he is acquitted, and is to be discharged.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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BELGAUM.

[Case No. 13 of the Criminal Return of the Magistrate of Belgaum for March 1855. Tried by Mr. W. H. HAVELOCK, First Assistant Magistrate, on the 21st and 22nd March 1855. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Refusal to Attest a Deposition.

Prisoner.—Balajee Yelgoond, Brahmin, aged 25.

Charge.—With having, on the 8th January 1855, (corresponding with Poush Wud 5th, Shuké 1776,) in the Kutchery at Bagulkote, when directed by the Mamlutdar to attest a deposition in a criminal case with his signature as a witness, refused to do so. (Regulation XII. Section XLI. Clause 2nd, of 1827.)

The prisoner pleads not guilty.

Finding and Sentence by the First Assistant Magistrate.—The prisoner defends himself on the plea of being ill with fever at the time; but two competent witnesses deny that he had fever.

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Refusal to Attest a Deposition.

It is also improbable that the Mamlutdar would have insisted on the accused going to attend the prosecution as a witness if he really had fever at the time ; the refusal was in order to escape the annoyance of the duty, and the plea of sickness an excuse for the refusal. The prisoner is found guilty of refusing to attest a statement as a witness, when ordered to do so by the Mamlutdar.

The Mamlutdar reports that the prisoner once before refused in a similar manner, and was discharged with an admonition.

Lenient treatment has evidently not had a beneficial effect in this case.

The prisoner being found guilty, as above stated, is sentenced to pay a fine of ten (10) rupees, or to suffer imprisonment in the Dharwar Jail, for twenty (20) days. (Regulation XII. Section XLI. Clause 2nd, of 1827.)

The Regulation specifies the Zillah Magistrate as the person authorised to inflict the penalty under this Section and Clause ; but the Assistant Magistrate concludes that he is authorised to act in the case by the general delegation of authority received.

Resolution of the Sudder Foujdaree Adawlut.—The law requires that every confession of a prisoner shall be attested by two competent persons present, if the confession is to be made use of in a Court different from the one wherein it is taken: the District Police Officer's power, therefore, to require this attestation, is clearly implied, and the resusal to attest the confession in this instance was, in the opinion of the Court, properly punished by the First Assistant Magistrate.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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POONA.

[Case No. 34 of the Calendar of the Poona Sessions Court for 1855. Committed by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 12th March 1855. Tried by Mr. R. KEAYS, Session Judge, on the 17th April, and 3rd and 4th May 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Rama bin Suyajee, Koonbee, aged 25. Murder.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, under date 15th February 1855, (corresponding to Magh Wud 14th, Shuké 1776,) in the city of Poona, struck your wife Luxoomee on the right temple with a 'mular' of stone, or some such instrument, from the effects whereof she died soon after receiving the stroke: thus you deprived her of life wilfully, and without any justifiable or extenuating cause.

Finding and Sentence by the Session Judge.—The prisoner is accused of wilful murder, in the instance set forth in the charge, and pleads not guilty.

From the evidence of the Members of the Punchayet it is proved that the deceased met with a violent death, and this it appears could have occurred only in two ways,—either the deceased fell from the loft of the house whilst getting down fuel to prepare a meal, or she was cruelly and brutally beaten to death by the prisoner at the bar.

In considering the first supposition, the Court regrets to be obliged to record the following circumstances:—

1*st.*—That the height of the loft being only about seven feet, and the person of the deceased being so small and light, it is altogether unlikely that immediate death would have ensued from a fall.

2*nd.*—That the hour at which the fall is said to have occurred is a very unlikely one for the woman to have gone up to the loft at all.

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3rd.—That supposing the deceased had met her death in the manner the prisoner would wish the Court to believe, viz. accidentally, the prisoner and his mother would hardly have remained quietly in their house, without endeavouring to obtain assistance, until they were discovered.

Lastly.—Under the same supposition, it is impossible that the woman Bhagee, the prisoner's own mother, would have invented the story contained in her deposition when first taken before the Police Authorities.

Having now considered the improbabilities of the prisoner's story, the Court proceeds to notice the circumstances attending the other supposition, viz. that the poor girl was beaten to death, in the manner described in the charge.

It is in evidence that the prisoner and the deceased were not on good terms. The prisoner's mother, whilst she repudiates her statement containing the graver charge against her son, admits this fact; and looking at the statement given by the Civil Surgeon,* the Report of the

* *Deposition of the Civil Surgeon.*—I held a *post-mortem* examination on the body of a female sent by the Foujdar of Poona to the Civil Hospital, on the 16th February 1855. On the right temple there was externally considerable laceration of the scalp, and on examination I found fractures of the temporal bone, extending to the occipital, malar, sphenoid, and frontal bones. These fractures were in some parts comminuted, *i. e.* the bone was broken into small pieces. The internal arteries were lacerated, and considerable effusion of blood was seen.

There was also a simple fracture of the left temple.

I am of decided opinion, that the injuries which I have described could not possibly have been caused by a fall from a height of about seven feet: very much greater force must have been used to cause the bones to be so much comminuted as I found them; and I account for the fracture on the left side being caused by the force which caused the injuries of the right temple extending to the left side.

I am of opinion that the woman's head must have been placed upon the flat stone for grinding 'mussala' now shown to me by the Court, or upon some other hard substance, and that she was beaten violently on the right temple with the stone pestle, which is also shown by the Court.

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Punchayet, and the repudiated statement of Bhagee, the Court is morally convinced that the prisoner is guilty of the offence with which he is charged, and accordingly convicts him of wilful murder; in having, under date 15th February 1855, (Magh Wud 14th, Shuké 1776,) in the city of Poona, struck his wife Luxoomee on the right temple with a mular of stone, or some such instrument, from the effects whereof she died soon after receiving the stroke: thus he deprived her of life wilfully, and without any justifiable or extenuating cause.

In considering the sentence to be passed on the prisoner, the Session Judge remarks, that the evidence being entirely circumstantial, he has in such cases a moral repugnance to pass the extreme sentence of the law; therefore the following sentence is passed:—

That you, prisoner Rama bin Suyajee, be transported beyond seas, for the term of your natural life. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut. (Reg. XIV. of 1827, Sect. XXVI. Clause 1st.)

* * * * * *

The witness Bhagee having committed perjury, is forwarded to the Magistrate, with the statement made by her before this Court, and that given by her before the Police Authorities, both on solemn affirmation, in order that a case may be prepared against her.

Minute recorded by Mr. A. Remington.—The case against Rama is one of suspicion only.

Deceased Luxoomee was in all probability murdered; but the evidence is much stronger against Bhagee than Rama. She at least it was who, according to Bandaree (witness No. 8), once put pounded glass into Rama's food, to poison his mind against his wife; and in this instance it was she who covered the floor with cowdung, to obliterate all traces caused by Luxoomee's death.

Had Rama been concerned, the two might have remained quietly in the house together, as it is urged in

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the finding that Rama did; but the fact seems to have been the reverse, since Vitoo (witness No. 6) deposed that, hearing a noise, he went and informed the Police that something was wrong.

There is certainly a want of proof to fix the guilt of murder upon the prisoner; though, from the circumstances connected with the case, but very little doubt can exist that one of the two, either Rama or his mother, must have perpetrated the deed, though which of them is not satisfactorily shown. If Bhagee committed the murder,—and the presumption is very strong against her,—the concealment of it could not be an offence in Rama, in respect to his relationship to the female as her son.

The safer course will be therefore to acquit the prisoner; and the Session Judge might be told, that in the Court's opinion the Police did quite right in keeping Bhagee under surveillance, and that his censure of them for so doing was unnecessary, and uncalled for.

Minute recorded by Mr. M. Larken.—Whatever might have been the evidence procurable in this case (and the girl could not have met her death in the way stated by the prisoner), I cannot find anything recorded in the trial which connects the death of Luxoomee with any act of the prisoner.

Even the flat stone and the stone pestle, with which the Civil Surgeon considers the deceased was murdered, do not appear to have been in evidence before the Court. Of much that the Inquest Report details, there was no evidence taken by the Session Judge. The prisoner must be acquitted.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner is acquitted, and is to be discharged.

The Court consider that the retention in custody by the Police of the woman Bhagee was fully justified by the suspicion which attached to her, and the Session Judge

should have abstained from the censure recorded at page 13 of his English record.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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DHARWAR.

[Cases Nos. 32 and 33 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. J. R. ARTHUR, Acting Second Assistant Magistrate, on the 14th February and 1st March 1855. Tried by Mr. A. W. JONES, Session Judge, on the 7th March 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner in Cases Nos. 32 *and* 33.—Tima bin Rama, Bedur, aged 28.

Serious Assault; and Escape from Custody before Sentence.

Charge in Case No. 32.—Serious assault (Regulation XIV. A. D. 1827, Section XXIX. Clause 1st); in having, on Wednesday, the 29th November 1854, (corresponding with Margsheersh Shood 10th, Shuké 1766,) assaulted and wounded one Doorgee, daughter of Hunmee, by striking her several blows on the head with a reaping-hook, in a field of the village of Akewalee, in the Hangul Talooka of the Dharwar Division and Zillah.

The prisoner pleads guilty.

Charge in Case No. 33.—Escape from custody before sentence (Regulation V. A. D. 1831, Section II.); in having, on Tuesday, the 26th December 1854, (corresponding with Poush Shood 7th, Shuké 1776,) in the town of Adoor, in the Hangul Talooka of the Dharwar Division and Zillah, escaped from the custody of the Jewan Ninga, before sentence, when charged with the offence of serious assault.

The prisoner pleads not guilty.

Finding by the Session Judge in Case No. 32.—It appears that the prisoner is a sub-tenant of a woman named Hunmee, and that she went one day to the field to pick some of the second crop of chillies, to which

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Serious Assault; and Escape from Custody before Sentence.

she said by the terms of the lease she had a right; but that on her attempting to do so, the prisoner first threw a stone at her, and then struck her on the head with his reaping-hook. The prisoner pleads guilty to the charge, and admits before the Court the confession he had previously made before the Police Authorities. The Session Judge had the complainant brought up, and could not see any very distinct trace of the wound inflicted; but considering that the blow was struck on the side of the head, and with a reaping-hook, he considers the assault must be estimated to be a serious one, and that it is mere chance that it did not inflict more serious injury.

The prisoner is therefore convicted of serious assault; in having, on Wednesday, the 29th November 1854, (corresponding with Margsheersh Shood 10th, Shuké 1776,) assaulted and wounded one Doorgee, daughter of Hunmee, by striking her several blows on the head with a reaping-hook, in a field of the village of a Akewalee, in the Hangul Talooka of the Dharwar Division and Zillah.

But there being another charge against the prisoner, the sentence is postponed.

Finding and Sentence by the Session Judge in Case No. 33.—The prisoner was in charge at the Adoor Kutchery, but was taken away to get his food, and took the opportunity to escape. He admits his statement, in which this is acknowledged, and the evidence of the other witnesses corroborating it, notwithstanding his plea of momentary madness, which cannot be admitted to excuse him, being only an assertion; and he is therefore convicted of escape from custody before sentence; in having, on Tuesday, the 26th December 1854, (corresponding with Poush Shood 7th, Shuké 1776,) in the town of Adoor, in the Hangul Talooka of the Dharwar Division and Zillah, escaped from the custody of the Jewan Ninga, before sentence, when charged with the offence of serious assault.

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Serious Assault; and Escape from Custody before Sentence.

And after considering the nature of the offence committed in this case, and of that in Case No. 32, in which he was also convicted, and the punishments assigned thereto in Regulation V. of 1831, Section II., and Regulation XIV. of 1827, Section XXIX. Clause 1st, the following sentence is passed:—That you, Tima, be imprisoned and kept to hard labour, for two (2) years, and then be kept in solitary confinement for one (1) month.

* * * * * *

The Session Judge begs to forward, for the Magistrate's information, the Assistant Magistrate's remarks in the case of escape from custody:—

"The Assistant Magistrate must notice the very great carelessness evinced by the Adoor Police Officer in his arrangements for the safe custody of the prisoner, the Jewans in the Kutchery having been evidently permitted to keep guard over him or not as they pleased, or to take him in and out of his place of confinement to this or that house in the town, as pleased their fancy. It is no wonder, then, after sanctioning such irregular proceedings as these, that that Officer should consider that the Jewan Ninga, in letting Tima escape, committed a very pardonable offence,—in fact one which he has only thought fit to notice after the lapse of two months, and then by a recommendation that he should be fined a certain number of rupees.

"With regard to the case itself, it could not have been sent up to the Assistant Magistrate prepared in a less satisfactory manner. The only document from which any information as to what occurred could be drawn was the confession of the prisoner himself. The Jewan Ninga was allowed to leave the district for an apparently indefinite time, and no report explaining the circumstances under which the escape was effected was forwarded by the Police Officer. Much delay has in consequence ensued in the committal of this case."

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DHARWAR.

Serious Assault; and Escape from Custody before Sentence.

Resolution of the Sudder Foujdaree Adawlut.—The Court mitigate the sentence to one (1) year's imprisonment, with hard labour.

The Court remark that there is a confusion on the record as to the name of the prosecutrix, which should have been avoided.

The Assistant Magistrate is to be informed that he should not have examined the child Samya, if he was too young to be put upon solemn affirmation.

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POONA.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 21 of the Calendar of the Poona Sessions Court for 1855. Committed by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 9th February 1855. Tried by Mr. R. KEAYS, Session Judge, on the 2nd and 3rd April 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Forgery; Instigating, and wilfully Uttering the aforesaid Forgery; and Aiding and Abetting in the Commission of the same.

Prisoners.—No. 1, Shamrao Rutnakur, Brahmin, aged 40.
2, Raghojee bin Amree, Koonbee, aged 40.
3, Trimbuka bin Sooryajee, Koonbee, aged 35.

Charge.—Against prisoner No. 1 (Shamrao), forgery (Regulation XIV. of 1827, Section XVII. Clause 1st); in that, on or before the 19th August 1854, (corresponding to Shrawun Wud 11th, Shuké 1776,) at Poóna or elsewhere, with the intention of defrauding one Oomábaee kom Maheeputrao, you cut off the lower portion of a 'bund' of Joonere paper, with her and the two attesting witnesses' signatures borne thereon, the paper itself, while entire, being a genuine receipt for Rs. 17, passed by the said Oomabaee to prisoner No. 3 (Trimbuka); and on the other side of the detached piece,

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which was blank, wrote out a receipt, purporting to have been passed by Oomabaee to prisoner No. 2 (Raghojee), and his two brothers, for a sum of Rs. 118, being in part liquidation of certain decrees which had been passed against the said Raghojee, and in favour of Oomabaee; and, moreover, affixed to it the signature of one Dhondee bin Krishnajee, as if he were one of the attesting witnesses.

Against prisoner No. 2 (Raghojee), under Regulation XIV. of 1827, Section XVII., and Section I. Clause 5th, instigating prisoners No. 1 (Shamrao) and No. 3 (Trimbuka) to perpetrate the crimes respectively laid to their charge; in that, with the intention of defrauding the aforesaid Oomabaee, and thereby of benefitting yourself, you instigated prisoner No. 1 (Shamrao) to commit the forgery, as above set forth, and prisoner No. 3 (Trimbuka) to aid in the commission thereof, as set forth below opposite his name.

You are charged, also, under Regulation XIV. of 1827, Section XVII. Clause 2nd, with wilfully uttering the aforesaid forgery; in that, under date 19th August 1854, you wilfully presented the aforesaid forgery in the Court of the Principal Sudder Ameen of Poona, in support of certain allegations made by you to rebut a process issued against you by that Court, for the enforcement of the decrees passed in Oomabaee's favour.

And against prisoner No. 3 (Trimbuka), aiding and abetting in the commission of the aforesaid forgery (Regulation XIV. of 1827, Section XVII. Clause 1st, and Section I. Clause 5th); in that, on or before the 19th August 1854, you supplied prisoners No. 1 (Shamrao) and No. 2 (Raghojee) with a genuine receipt, which had been written on a bund of Joonere paper, with its lower portion and the other side blank, and passed to you by Oomabaee for a sum of Rs. 17; for the purpose of being made a fraudulent use of, as set forth above opposite prisoner No. 1 (Shamrao).

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Finding and Sentence by the Session Judge.—The prisoners are accused of forgery, in the several instances charged in the indictment, and severally plead not guilty.

It is in evidence, that Oomabaee brought an action, and obtained a decree for Rs. 118 against the prisoner Raghojee. In execution of this decree, she caused his house to be attached. The prisoner Trimbuka here came forward, and filed a suit, to obtain the removal of the attachment, received a nonsuit, and was held responsible for Oomabaee's costs. Execution was enforced for the recovery of the costs, and they were paid by Balajee Wasoodew, on prisoner Trimbuka's account, who took a receipt from Oomabaee for Rs. 17, and delivered it to the prisoner Trimbuka the following day.

The execution of this receipt is clearly proved by the writer, and the two witnesses who attested it. They all say that there were only two witnesses to the receipt, and that they never attested any other receipt of Oomabaee; and deny that they attested the document recorded No. 12 in particular. Now, as this receipt bears their signatures, it must have been fabricated in the manner laid in the charge. The signatures of the receipt for the Rs. 17 must have been cut off, and the receipt for Rs. 118 must have been written at the back.

After prisoner Raghojee had recorded this receipt in the Court of the Principal Sudder Ameen, and it had given rise to suspicion, he, as proved by the witnesses, Vukeels of the Court, paid the money due on the decree. Now, if it were possible to believe the receipt to be a true document, he would not have done this. The prisoner Shamrao himself admits that he wrote the receipt; and it is proved that the receipt for Rs. 17—which evidently from its appearance, as well as what has been stated by the witnesses, formed a part—was delivered to prisoner Trimbuka; and the combination between him and prisoner Raghojee is shown from his having brought

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the groundless action for the removal of the attachment from prisoner Raghojee's house. The Court does not entertain the very slightest doubt regarding the guilt of any one of the prisoners: they accordingly and therefore, all three of them, viz. No. 1 (Shamrao Rutnakur), No. 2 (Raghojee bin Amree), and No. 3 (Trimbuka bin Sooryajee) are convicted of forgery, in the instances set forth at the head of these proceedings.

The Court regrets to record that the crime of forgery is so disgracefully prevalent in this city, and receives such encouragement from respectable people; for in this most atrocious and flagrant case, where the object was to defraud an unprotected female, the Government Pleader even comes forward to endeavour to protect the prisoners. The Court has no other course but to sentence all who are convicted of this offence to the heaviest punishment the law will allow; accordingly the Court passes the following sentence:—

That you, prisoner No. 1 (Shamrao Rutnakur), you, prisoner No. 2 (Raghojee bin Amree), and you, prisoner No. 3 (Trimbuka bin Sooryajee), do each of you suffer imprisonment with hard labour, for a period of five (5) years, and pay a fine of two hundred (200) rupees each, commutable to other two (2) years' imprisonment, with hard labour. (Regulation XIV. of 1827, Section XVII. Clauses 1st and 2nd, and Section I. Clause 5th.)

Resolution of the Sudder Foujdaree Adawlut.—The petitions are rejected.

The Session Judge is to be informed that the prisoners should have been charged with conspiracy. The Court are forced to express their surprise at the remark recorded by the Session Judge at page 27 of the English proceedings—"The Court regrets to record that the crime of forgery is so disgracefully prevalent in this city, and receives such encouragement from respectable people; for in this most atrocious and flagrant case, where the

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object was to defraud an unprotected female, the Government Pleader even comes forward to endeavour to protect the prisoners." They consider that no blame whatever is attributable to the Government Vukeel, Ramchunder Dhondeo, for accepting the office of Advocate for the prisoners in the Sessions Court. In the Sudder Court, the case of the prisoner Trimbuka has been advocated by Mr. Huree Junardhun, the Government Pleader; and the Session Judge should remember that the duty of an Advocate towards his client is of a sacred nature, and essentially protects him from such censure as the Session Judge has recorded.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

BROACH.

[Case No. 3 of the Criminal Return of the Magistrate of Broach for March 1855. Tried by Mr. L. R. ASHBURNER, Acting First Assistant Magistrate, on the 31st March 1855. Confirmed by Mr. E. L. JENKINS, Magistrate, on the 11th April 1855. Reviewed by Mr. H. HEBBERT, Acting Session Judge, on the 7th May 1855. Proceedings submitted for the consideration and final orders of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Robbery with Force, by Night.

Prisoners.—No. 1, Jeewa Kevul, Kolee, aged 30.
2, Noora Bapoo, Bheel, aged 30.
3, Raijee Khooshal, Kolee, aged 30.
4, Oomed Bhugtee, Kolee, aged 18.
5, Sóma Jora, Kolee, aged 22.

Charge.—Robbery with force, by night (Regulation XIV. of 1827, Section XXXVII.); in having, on the night of March 29th, 1855, (Chuitru Shood 11th, Sumvut 1911,) in the lands of the village of Timuj, stolen from the field of Baijee Munohur 30 seers of cotton, value 15 annas, being at the same time armed with swords, and bows and arrows, which they threatened

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to make use of on the persons of Jora Koher and others, who apprehended them.

The prisoners plead not guilty.

Finding and Sentence by the Acting First Assistant Magistrate.—Prisoners Nos. 1 and 2 made a very circumstantial confession before the Joint Police Amuldar of Jumboseer, in which they implicate prisoners Nos. 3, 4, and 5. They now retract their confessions; and as there appears evidence sufficient to convict them independent of their confessions, it does not appear necessary to record them. I find the whole of the prisoners guilty of robbery with force, by night; and in consideration of the prevalence of their offence, and their being armed, sentence them to imprisonment with hard labour for five (5) months, and for one (1) month on conjee diet.

The cotton to be returned to Baijee Munohur, and the swords to be confiscated to the State. (Regulation XIV. of 1827, Section XXXVII.)

Confirmation by the Magistrate.—The sentence is confirmed; but the Magistrate thinks that the prisoners ought properly to have been charged with "an attempt" to commit robbery, and he remarks that there is nothing in the evidence to show where the swords, alluded to at the end of the Assistant Magistrate's finding, were found.

The Magistrate is also of opinion, that with reference to the Circular of the Sudder Foujdaree Adawlut No. 400, dated 28th May '1849, the depositions of the persons by whom prisoners Nos. 3, 4, and 5 were apprehended ought to have been taken.

Reviewed by the Acting Session Judge on Appeal.—In these they one and all deny the charge preferred against them, and assert that the witnesses for the prosecution have deposed falsely against them, from enmity.

Having perused the record and proceedings, the Court sees no ground for interfering with the conviction. The witnesses for the prosecution distinctly depose to the

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identity of the prisoners; and 28 seers of cotton they had plucked in the field they were robbing were produced before the Magisterial Authorities. But the Court is of opinion the punishment is excessive. The prisoners have been sentenced to six months' imprisonment, five months with hard labour, and one month on conjee diet. The Court does not think the period of imprisonment too long, but thinks, in a Jail notoriously unhealthy, as that at Broach is, a month's conjee diet, even if it were probable it could be carried out, calculated to risk the prisoners' lives. It would tend to weaken them considerably, and predispose them to disease, the inroads of which they would in all likelihood be unable to resist. The Court would mitigate the punishment to six months' imprisonment, with hard labour.

The above being in opposition to the recorded opinion of the Magistrate of Broach, the papers and proceedings to be forwarded for the final decision of the Court of Sudder Foujdaree Adawlut.

Letter from the Acting Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—Under the provisions of Regulation VIII. of 1831, Section III. Clause 3rd, I have the honour to submit, for the consideration and final orders of the Judges of the Sudder Foujdaree Adawlut, an extract from my proceedings in the case of the prisoners convicted by the Acting First Assistant Magistrate at Broach, of robbery by night, with force. I also submit herewith the whole of the papers and proceedings in the case alluded to.

Resolution of the Sudder Foujdaree Adawlut.—The Court concur with the opinion of the Session Judge, and annul the order for conjee diet.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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POONA.

[Case No. 49 of the Calendar of the Poona Sessions Court for 1854. Committed by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 29th June 1854. Tried by Mr. R. WHITE, Assistant Session Judge, on the 9th, 11th, and 12th December 1854, and 5th, 11th, 30th, and 31st January 1855. Reviewed by Mr. R. KEAYS, Session Judge, on the 4th April 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Vitul Yeshwunt.]

Prisoners.—No. 1, Vitul Yeshwunt, Brahmin, aged 31.
2, Krishnajee Kaseenath *alias* Bhaoo, Brahmin, aged 21.

Theft; and Aiding and Abetting in the Offence.

[For the proceedings in the first stages of this case, see pages 540 to 549, Vol. II. of these Reported Cases.]

Charge.—Against prisoner No. 1, theft (Section VIII. of Act XIII. of 1850); in that, on the 31st March 1854, (corresponding with 3rd Chuitru Shood, Shuké 1776,) in the city of Poona, he did fraudulently appropriate to himself a quantity of gold, valued at Rs. 9,344, entrusted to him by the deceased Luxoomun Powar Jasood, to be delivered to Hurgovindas Chutoorbhoojdas, Narapa Naik Dharwarkur, and Bujajee Rughoonath, all Sowkars of Poona.

And against prisoner No. 2 (Krishnajee Kaseenath), aiding and abetting in the above offence (Section VIII. Act XIII. of 1850, and Clause 5th, Sect. I. Reg. XIV. of 1827); in that, on the night of the 6th May 1854, or thereabouts, he was present on the spot where a portion of the gold stolen by prisoner Vitul Yeshwunt, weighing Rs. 360, was buried under ground, knowing it to have been so stolen, and yet, when questioned by the Authorities, denied all knowledge of the matter.

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Prisoners plead not guilty.

Finding and Sentence by the Assistant Session Judge.—Prisoner Vitul Yeshwunt is found guilty of the crime with which he is charged. It is proved that he made the statement before the Foujdar (recorded No. 29), containing a full confession of the crime; and this statement is corroborated by the evidence in general in the case; and prisoner now, indeed, admits having made it, and that its contents are true, though he at first, consistently with his plea of not guilty, denied these facts. He urges, however, that he was induced to confess by a promise on the part of the Foujdar to release him; and the Court regrets to find, from the evidence of witness No. 23 (Venayekrao), late a Karkoon on the Foujdar's establishment, that it was by practising a stratagem upon prisoner, of which the promise in question formed a feature, that some of the property he had made away with was obtained from him. The Court, however, while it must express its disapprobation of the conduct of the Foujdar and his subordinate (the said Venayekrao) in the above respect, does not see any good reason why it should be allowed to operate at all in the prisoner's favour; for though it is true that it would have availed him little, most likely, after the production of part of the missing property, to assert his innocence of the crime laid to his charge, yet his confession can scarcely be looked upon as the direct result of the imposition which was practised upon him, since it was no part of the condition on which it was promised he should be released that he was to admit his guilt. As to prisoner No. 2 (Krishnajee Kaseenath), there is nothing to show that he aided and abetted prisoner Vitul Yeshwunt in the commission of the theft. The charge against Krishnajee, therefore, not being proved, he is acquitted and discharged. The Court, having duly considered the nature of prisoner Vitul Yeshwunt's offence, and bearing in mind

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that he has been in confinement for the last nine months, passes on him this sentence :—

That you, Vitul Yeshwunt, having been found guilty of theft, be, by virtue of paragraph 9 of Act XIII. of A. D. 1850, imprisoned and kept to hard labour, for the space of two (2) years.

Reviewed by the Session Judge.—After a very careful perusal of all the papers connected with this case, the Session Judge is of opinion that the Section under which the prisoner Vitul has been convicted of theft applies to his case, and that the charge has been properly laid.

With regard to the conviction, the Session Judge concurs with the Assistant Session Judge, that the conduct of the Foujdar and his subordinate, in promising to release the prisoner on condition that he gave the latter a bribe of Rs. 2,000 in gold, was reprehensible. The promise of this bribe by the prisoner, to be paid in the same kind of property as that which had been stolen, and was not forthcoming, was of itself a very important clue, which, with a little ingenuity, might have led to the discovery of the property, without the use of the stratagem so improperly resorted to. The confession of the prisoner, however, which has been admitted before the Assistant Session Judge, formed no part of the compact. It was a subsequent act entirely, and the prisoner was, doubtless, induced to make it by the consideration that the gold was found to be marked, and identified thereby as part of the stolen property. The confession is proved to have been voluntarily given, no force or ill-usage having been used to extort it ; and it is corroborated most fully by the evidence. This being so, the Court is of opinion that the prisoner has been properly convicted.

With regard to the sentence, the Court considers the punishment awarded hardly commensurate with the offence committed. Under these circumstances, the

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Session Judge can see no reason to interfere. An order to this effect to be endorsed on Vitul's petition, and the petition to be sent to the Nazir, for delivery to the prisoner.

Minute recorded by Mr. W. H. Harrison.—This prisoner was, with another, arraigned before the Sessions Court of Poona, on account of informalities in their former trial under the same Act.

It was not then, apparently, objected to, that the Act did not apply to such a fraudulent appropriation of property as is charged against the parties accused; but it seems to me that this Act, the title of which is "An Act for punishing Breaches of Trust," and the object of which is evidently the treating of such breaches of trust as if they were vulgar thefts, does not apply to such a case as the present, where no conditions of trust, in regard to the receipt of the property alleged to have been appropriated, are exhibited. The prisoner was charged with theft, moreover; but the Act is not one for the punishment of theft, but of breaches of trust, as if they were theft.

It is not asserted, or at all events proved, that any specific sum or valuables were made over, by the carrier who died on the road, to the prisoner. It is shown that certain bags of valuables, as professed, were made over, some of which he conveyed to their destination, and some he appropriated. It is not difficult to suppose that a charge framed under Section XL. Regulation XIV. would lie against this man; but, as arraigned, I must hold that he is not liable, and would acquit him.

Minute recorded by Mr. A. Remington.—I would reject the petition.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

Minute recorded by Mr. M. Larken.—It would have been better if the prisoner had been charged under

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Section XL. Regulation XIV. of 1827; but being charged under Act XIII. of 1850, the charge should have been "breach of trust; in having feloniously stolen," &c., not a simple charge of "theft," which is a word not used in the enactment quoted.

His guilt, however, is clearly established; and I cannot consent to annul the conviction because of the defect I have noticed.

Final Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Court consider that the sentence is very inadequate to the crime proved against the prisoner.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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DHARWAR.

[Case No. 156 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. M. J. M. STEWART, Acting First Assistant Magistrate, on the 23rd December 1854. Tried by Mr. A. W. JONES, Session Judge, on the 2nd, 3rd, 5th, 6th, 10th, 19th, 22nd, and 27th February 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoners.—No. 1, Venkutacharya bin Rughobhutyachree, Brahmin, aged 31.
2, Bhurmajee bin Lukmajee, Mahratta, aged 35.
3, Yesopa bin Gutgyapa, Mahratta, aged 35.

Charge.—Murder (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st); in having, on the night of Sunday, the 10th December 1854, (corresponding with Margsheersh Wud 6th, Shuké 1776,) in the village of Hoonsheekuty, in the Bunkapoor Talooka of the Dharwar Division and Zillah, wilfully and maliciously deprived of life Ninga bin Busapa Chowtee, by striking him on the

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head with a 'dhuratee' or sickle, and on the face with a bamboo club, and Anunda bin Konapa Arere by blows on the head with a blunt instrument; from which he was so grievously wounded that he died the following day.

Finding and Sentence by the Session Judge.—In this case the prisoners are charged with murder, and plead not guilty.

It appears that on Monday, the 11th December, about midday, a woman gave information to the Police Patel of the village of Hoonsheekuty, of having seen two men lying by a tank near which she had passed, on the way from Neergoondee; and the Police Patel therefore went out at once with some Shetsundees to the place indicated. He found there one man severely wounded; but still alive, and the body of another man quite dead. He therefore reported the matter to the Police Amuldar, who came in the course of the afternoon.

The wounded man was carried to the village, and taken care of, but died notwithstanding in the course of the night.

Inquests were held therefore on both bodies, which were proved before the Court; and it appears that on the back of the head of the man who was found dead, there was a severe wound with some sharp instrument, reaching from the crown of the head to the back of the neck, and a blow on the mouth had dashed out all the teeth. This body was that of Chowtee Ninga, of Bomunhully.

The wounds on the body of the other person, whose name proved to be Anunda, and who was also of Bomunhully, were all apparently inflicted with thick sticks, or with the back of an axe. One was on the left temple, another between the eyes; and there was a mark of violence on the neck also.

It appears that the Police Amuldar heard on his arrival that two persons of Bomunhully had come to Hoonshee-

kuty, to visit a woman of the name of Dhondee, and he therefore sent to Bomunhully, desiring that the relations of any one missing at that village might be immediately sent to him. This was accordingly done, and the fathers of the two men came in the course of the night, and identified the bodies of their sons; and Chowtee Ninga's father also gave information of the intrigue which had been carried on by his son with this Dhondee.

On the Tuesday morning, therefore, the Police Amuldar went at once to the house of this woman, and he deposes that, as he sat down on the 'chubootra' or verandah, outside the door, he observed spots of blood about in various places; and on questioning Dhondee, she stated that she had seen the murders committed by the three prisoners, and her deposition was therefore taken on that day, the 12th December.

Before the Court her evidence is in all material points to the same effect. It is to the effect that for the last two years she has had an intrigue with the deceased Chowtee Ninga in Bomunhully, and that they had recently determined to go away together. That she has also had an intrigue more lately with the prisoner Venkutachaŕya, who knew of that with Ninga; and that on the Sunday, Ninga and his friend Anunda came to the village, and sent word to her during the day, by witness No. 14, that he wanted to see her, and she desired him to come at night. That he did so, and slept with her in an inner room, while his friend Anunda slept in a shed outside. That when the moon rose, which it did that night at about half-past 10, Ninga got up to go away. She opened the door for him, and saw that he was no sooner outside than he was seized and attacked by the three prisoners, and that one of them, she could not distinguish which, struck him on the head with a stick, and another snatched the dhuratee he wore, and struck him with it on the back of the head, on which he fell.

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That just as this had passed, Anunda came out of the shed, and was also at once attacked, and knocked down by a blow on the head, struck, she states, by the prisoner Bhurmajee. That the three prisoners then took up Ninga's corpse, and carried it off in a 'kumblee,' by a road leading towards the gate of the village, and some time after returned, and carried off the other body.

She describes herself as having been too frightened to give the alarm, or cry out, as she was afraid of prisoner Venkutacharya, and that the whole affair passed in perfect silence, neither of the victims having uttered a cry.

The Assistant Magistrate says he places great reliance on the evidence of this woman, and the Session Judge can see no reason to do otherwise: it was given as soon as it possibly could be expected,—considering that the person accused was one of the Wutundar Patels of the village,—that is immediately she was questioned about it. It was not to be expected at her age (she is only eighteen) that she should come forward of herself and accuse a person in that position; and although the defence states there is ground of enmity between some relation of her's and the prisoner Venkutacharya, the Session Judge considers that nothing has been brought forward which would make it probable even that she would make any such accusation against him falsely.

Anunda appears to have been murdered because he had witnessed the murder of Ninga, and it was therefore unsafe to the murderers to let him live; but the motive for the murder of the boy Ninga was no doubt the jealousy of the prisoner Venkutacharya: and though it is true that the father of Dhondee declares he does not know of any intrigue between his daughter and the prisoner Venkutacharya, he allows that this prisoner comes occasionally to the house; and considering that her father is only a common labourer, and is very deaf, and that it is not to be expected he would allow his knowledge of

any intrigue between them, even if he knew it, and that a Wutundar Patel could hardly be supposed to come to such a house for the mere pleasure of talking to him, the Session Judge thinks the occasional visits to the house thus admitted are sufficient to show that this connexion between Dhondee and prisoner Venkutacharya did exist, as stated by her.

Then the evidence of Dhondee is corroborated by that of four other persons. Of these, the two witnesses Nos. 10 and 11 depose that they were called by prisoner Venkutacharya, and placed by him in a position near the village gate, and about 50 yards from Dhondee's house, towards which he went when he left them; but they neither of them say with what object they were placed there. They state, however, that about an hour afterwards, and when the moon had risen, they saw the prisoners come along from the direction of Dhondee's house, carrying something long and white, which looked like a human body, and that, frightened at this, they remained perfectly quiet where they were, and saw the three prisoners return, and go again towards Dhondee's house, and pass by them again, carrying another body; and that it was a body, witness No. 10 states he was positive this time, as he saw an arm hanging down; but witness No. 11 declares he was then so frightened, and that as they passed a second time, he did not look up, and, being behind witness No. 10, did not see them.

Another witness (No. 12) also deposes that he was called by prisoner Venkutacharya at about 10 o'clock on Sunday night, and told that he had something for him to do; and he was accordingly taken by him to a place not far from the village gate, and told to wait there, while he (the prisoner) went on to Dhondee's house, where some people from Bomunhully had come; and he also, about an hour after he had been stationed, and when the moon rose, saw the three prisoners pass, carry-

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ing a body wrapped in a 'dhotee,' and go out by the village gate, and he saw them also return, and go again towards Dhondee's house, and pass back again out of the village with another body; on which, he says he got so frightened, that he did not wait to see them come back again, but went straight home.

Witness No. 13 also deposes that he was called by the prisoner Venkutacharya to help in beating some Bomunhully people; but that, being ill, he had refused to go.

These four persons appear to have come forward of themselves to state what they knew of the matter, only the day after Dhondee's deposition had been taken, that is on the 13th December, and only three days, therefore, after the murder; and the Session Judge has no doubt that their doing so was owing to the presence of the Police Superintendent and the Assistant Magistrate on the spot having given them confidence to offer their evidence, notwithstanding that it affected a Patel of the village.

It agrees with that of Dhondee, except in the time which passed between the carrying off of the two bodies, and that she says the body of Ninga was carried away in a kumblee, while they all say it looked white, as if wrapped up in a dhotee. These differences are not, however, of sufficient consequence to affect their evidence.

It may be said, however, that it is highly improbable that the prisoner Venkutacharya, if he had determined on committing this murder, should have brought together such a number of witnesses to it, even though his position might lead him to suppose he was sure of their connivance. But the Session Judge thinks that it was not intended in the first instance to murder these persons; for it does not appear that any of the prisoners had any deadly weapons with them, and the only one used was that taken from the deceased Ninga; and if, therefore, as appears probable from this, it was only intended to give

them a good beating, the posting of these witnesses, as described, on each side of the gate out of the village, where they could have prevented the escape of Ninga and Anunda, would appear neither extraordinary nor improbable.

Then, again, it is shown by the evidence of the Police Amuldar, that on the Tuesday morning, when he went to Dhondee's house, he observed some spots of blood on the door of the house, and on the chubootra and ground close to where the murder was committed; and two men, who were desired by him to examine these spots, have deposed before the Court to this fact; and though the evidence of unprofessional persons is not implicitly to be relied on on such objects, yet, in connection with other evidence, it must be allowed some weight. The Session Judge had at first some doubt as to the possibility of the blood having spouted on to this door at all, since the roof of the verandah in front of the house was said to come down so low in front of it; but the Karkoon, who was sent at the request of the Session Judge to make the plan recorded on the proceedings, proves that the roof was 5 feet from the ground opposite the door, so that this difficulty was removed; and there is no doubt that such a blow as Ninga is described to have received on *the head* would have caused blood to spout from it quite as far as the door, from where he is said to have been standing.

The prisoner Venkutacharya, in his first statement before the Police Amuldar, which was duly proved as given by him voluntarily, merely denies the charge, ascribing it to enmity; but he said he had heard of the persons lying dead near the village as early as 8 o'clock in the morning of Monday, from some passers by, whom he did not know. He then stated that on the Sunday night Dhondee came to his house, and told him that a murder had been committed near the place where the

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bodies were found, and that he therefore went out and met witnesses Nos. 10 and 11 coming from the Neergoondee gate of the village, and witnesses Nos. 12 and 13 coming from the Seegaum village gate, and that they declared they had been beating the two deceased persons. The prisoner said he did not tell this before, for fear of endangering their lives, and that now they have accused him for fear he should betray them. That he then went to the houses of the other two prisoners, and told them about it. The next day he denies all this again, but says he spoke to one Busya (witness No. 15) about the dead bodies, on account of what he had heard the strangers, above alluded to, speaking of. Before the Assistant Magistrate he denied both these statements, and declared he was at Seegaum on the night of the murder.

This, however, is not insisted on by the Vukeel in his defence, and is sufficiently disproved by the evidence of witness No. 13, who met him before daylight at the village gate of Hoonsheekuty.

In addition to the above evidence, as regards prisoner No. 2 (Bhurmajee), it is shown that a heavy stick, such as must have been used to cause such wounds as were found on the bodies of the deceased, was found in his house. It is shown by the Civil Surgeon that the spots of blood on it were not spread over it, as supposed by the Sepoy and other witnesses, but were in small spots, as if sprinkled on it; and the Session Judge therefore thinks it probable the blood must have spouted on it from the wound at the back of the head of Ninga.

His only defence is a denial of the charge, and an assertion that he was in his field at the time; and he named two persons in a neighbouring field as having probably seen him: but both of these persons deny having seen him there. It appears, however, that it is possible he might have been there notwithstanding this, as the fields are not so close as that it is impossible

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that he should have been in his field without having been seen.

The statement of prisoner Yesopa, proved before the Court to have been given voluntarily, and admitted before the Assistant Magistrate, is to the effect that he was asked by prisoner Venkutacharya to help to beat the two deceased on the Saturday; but that they did not come to Hoonsheekuty that day; and then, that on the Sunday evening he was called out, with one Shidda, by prisoner Venkutacharya, and went outside the village near where the bodies were found, and heard in the course of the night some sounds of violence, and that, frightened at this, he went home.

This statement he denied before the Court, and in lieu of it the Vukeel simply denied the charge for him, and states that no enmity is shown to exist between him and the deceased.

Considering, therefore, the direct evidence against the prisoners, and the want of any defence of any weight at all to remove the effect of that evidence, the Session Judge is of opinion that the three prisoners must be convicted of murder, as charged against them; in having, on the night of Sunday, the 10th December 1854, (corresponding with Margsheersh Wud 6th, Shuké 1776,) in the village of Hoonsheekuty, in the Bunkapoor Talooka of the Dharwar Division and Zillah, wilfully and maliciously deprived of life Ninga bin Busapa Chowtee, by striking him on the head with a dhuratee, or sickle, and on the face with a bamboo club; and Anunda bin Konapa Arere by blows on the head with a blunt instrument; from which he was so grievously wounded that he died the following day.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. A. D. 1827, Section XXVI. Clause 1st, the following sentence is passed: —

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That you, Venkutacharya, you, Bhurmajee, and you, Yesopa, be taken to the common place of execution at Dharwar, and there be hung by the neck till you are dead. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The convictions are confirmed; and the prisoners Venkutacharya, Bhurmajee, and Yesopa, are sentenced to transportation for life.*

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

AHMEDABAD.

[Case No. 19 of the Calendar of the Ahmedabad Sessions Court for 1855. Committed by Mr. W. A. RITCHIE, First Assistant Magistrate, on the 8th February 1855. Tried by Mr. H. NEWTON, Acting Session Judge, on the 9th, 10th, and 13th April 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation by the Acting Session Judge.]

Murder.

Prisoners.—No. 1, Prag Gugga, Rajpoot, aged 17 or 18.

2, Desul Deokurn, Rajpoot, aged 25.

Charge.—Murder; in having, on December 25th, 1854, (corresponding with Monday, Poush Shood 6th, Sumvut 1911,) within the bounds of Budurka, Purgunna Dholka, Zillah Ahmedabad, purposely, and without justifiable or extenuating cause, beaten one Sheebhaee Mooloo with a stick or cudgel, by which he was so severely injured that he died next day.

* The result of a subsequent investigation (instituted on the representation of the prisoners that, if inquiry were made, it would be found that Dhondee could disclose who had really committed the murder) having been submitted to the Court by the Session Judge, Mr. Remington recorded :—" I concur with the Session Judge, that this inquiry has thrown no light upon the matter, further than was reflected by his own proceedings, which the Court upheld; and this may be recorded"; which opinion was concurred in by Mr. Larken.

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The prisoners plead not guilty.

Finding and Sentence by the Acting Session Judge.—Against the prisoner No. 2 (Desul) there is no evidence, except the statement made by the deceased, not on solemn affirmation, that he was standing by when the other prisoner committed the assault, which resulted in Sheebhaee's death; and this prisoner's retracted statement, that the prisoner Prag came to him on the night of the assault, and said that he had murdered the deceased. The Court, finding this insufficient for his conviction, acquitted him before the close of the prosecution, in order that he might be examined as a witness respecting the alleged admission of the prisoner Prag above referred to; but he has denied that any such admission was made. It therefore only remains for the Court to consider the evidence against prisoner No. 1 (Prag Gugga).

It is satisfactorily proved, that the deceased left his house, for a natural purpose, about 9 o'clock on the night of 25th December last, and that, while returning, he received several blows on the head, inflicted by a stick or cudgel, or some other such blunt weapon, which caused his death next day. The evidence tending to fix the crime on the prisoner Prag is as under:—

The dying statements of the deceased. He is shown, when found by his sister (witness No. 7) at the place of the assault, and questioned by her respecting his assailants, to have given the name of this prisoner, with that of Desul. Shortly afterwards, his wife (witness No. 5) came up, and he then, when again questioned, by her, stated, as deposed by both witnesses, that Prag had struck him, and that Desul had been standing near. Witness No. 7 further heard him say that Prag had beaten him with a stick, and witness No. 5, that Prag, before assaulting him, had asked him who he was; and that he had fallen down unconscious after receiving the first blow. These two women then assisted him home, to which he was able

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to walk, supported by them; and the latter went at once to the Mookhee of the village (witness No. 14), who proceeded to Sheebhaee's house, and again asked him the circumstances of the assault. According to the concurrent testimony of these three witnesses, he repeated his previous statements; and, according to the Mookhee's testimony, stated the further particulars that he had gone outside the village with a single cloth on his body, for a call of nature; when returning, had sat down near a fire close to two carts, opposite the hut of one Kasheegur; that two men then came and asked him who he was, and that on his giving his name, Prag, who was one of them (the other being Desul), had struck him a blow on the head, which rendered him insensible.

As the deceased gave no formal deposition, it has become needful to weigh with care the value of the evidence on which these statements rest; and the Court is compelled to conclude that this evidence is entitled to the fullest credit. The prisoner has urged that the charge is the result of a conspiracy, set on foot by the Mookhee; but the testimony, both of the Mookhee and the female witnesses, exhibits a marked absence of forwardness to depose to the prisoner's detriment on points on which it would have been easy for them to have fabricated evidence, or put forward assertions, if their object had been to establish the charge. The prisoner has also been unable to record a shadow of evidence to show the existence of enmity against him on the part of the Mookhee. Since, however, the chief point urged by the prisoner, as shown by his cross-examination of the witnesses, and his defence, is that the deceased did not mention his name, or make statements of any kind, the Court considered it advisable to put the evidence on this point to a test which an accidental statement of the Mookhee showed to be available. This Officer deposed, that after hearing the declaration of the deceased, he called a Wanca, whose

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name he mentioned, apparently for the first time, in order that a written deposition might be taken; that the Wanea came, but that on his arrival it was found that the deceased was no longer able to speak. The Court therefore summoned this Wanea, and his deposition is recorded No. 19. It shows that the Mookhee came to this witness at about 9 o'clock on the evening in question, and requested him to bring pen, ink, and paper, for the express purpose, stated before they reached Sheebhaee's house, of taking Sheebhaee's deposition; that on their arrival at the house, they discovered that Sheebhaee was speechless, and that this witness was therefore requested to write a report immediately to the District Police Officer of Dholka. This proof of the arrangements made by the Mookhee for taking down the deceased's deposition in writing is evidence of the best kind, because undesigned; that he believed such a deposition would be procurable; and, as he had previously been at Sheebhaee's house, he could not have believed this if Sheebhaee had not been able to give him some information. To give additional support to the Mookhee's testimony, the Court has also called for and recorded (No. 18) the report sent by him to the District Police Officer but an hour or two after the assault, in which the statements made by the deceased, and mention of the prisoner's name, are given, as in the depositions before the Court. It may also be remarked, that when the Wanea arrived to take down the deposition, he found deceased sufficiently sensible to make answer by uttering a sound when called by name, though unable to speak a word; and as the deceased is shown to have been able but a very short time before to walk home supported by two women, and yet to have died at noon next day from severe injuries on the head, there is nothing improbable, but the contrary, in the testimony recorded, that he was able to speak for a short time, and that his transition to

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speechlessness was very sudden. The Court for these reasons considers it to be conclusively established that the deceased gave the name of the prisoner Prag on three different occasions, and to three witnesses, as the perpetrator of the assault which caused his death.

The next point against the prisoner is his proved enmity against the deceased, whose wife is shown to have been married to prisoner's cousin, and to have absconded with deceased. It is in evidence that on this account both deceased and the woman left their village for about nine years, and that they returned only after the death of the former husband, and but nine months before the murder. Desul was more nearly related than the prisoner to the man thus deprived of his wife ; but the Mookhee states that the prisoner Prag manifested much more enmity than the other towards the deceased on this account. The Members of the Inquest, and other witnesses, also depose to the existence of this ill-feeling.

The next point is the prisoner's proved threat that he would cause deceased to die the death of a dog, because he had come to live in the village. The repetition of this threat on another occasion is deposed to by the witness No. 7, who, it should be remarked, required to be questioned before she mentioned it ; and the Mookhee, while manifesting the absence of bias against the prisoner, by stating that he did not directly hear any threat, and that he did not suppose that Prag would carry such a threat into execution, admits that Lalvahoo, deceased's wife, complained to him that such a threat had been uttered ; and that she also, in the month of June or July last, *i. e.* five or six months before the murder, charged the prisoner with having come to kill her with a cudgel, though no evidence of the charge was forthcoming.

Immediately after the assault, the witnesses Nos. 14 and 17 examined the vicinity, and found two sets of footprints, one of which they depose that they traced

to a well in a field belonging to Prag, and a partner, at a considerable distance from the place where deceased was wounded. In this field, Prag is shown to have been found by his father, and the shoes taken from his feet next morning are said to correspond in length with the tracks. Deponent No. 15 also saw the tracks. They were not, however, compared with the footprints; and though the evidence respecting these tracks necessarily gives some confirmation to the other evidence against the prisoner, the Court would not lay much stress on it, since the Pugee (witness No. 17) is an old man, and any other person going from Budurka to the same field, as for instance the deponent No. 15 (whose shoes, however, are stated to be of another kind), would probably have passed over or near the place where the deceased received the blows.

When the prisoner's field was searched, two sticks were found, and they bear small stains, which some of the witnesses state to be blood. The prisoner first admitted before the Joint Police Officer that one of them, the rake handle, was his, but immediately, during the same examination, retracted this statement. The deponent No. 15 states that Prag was in the habit of using it, and he and the Mookhee, and witness No. 17, depose that it was found on some 'kurbee,' which the former states to have belonged to the prisoner; but on this point deponent No. 16 differs from them (probably incorrectly), and they differ *inter se* as to the appearance of its being concealed. The other stick (a bamboo) appears not to have been discovered until a second search was made, on the statement by witness No. 15 that he had seen a bamboo in prisoner's hand immediately before the assault. This witness positively states the bamboo to belong to the prisoner, but shows no sufficient reason for his assertion of its identity. The deponent No. 14 similarly identifies it; but the Court cannot trust a statement of

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this kind, as the stick is in no way peculiar, and the statement of this witness that he often saw it in Prag's hands is not borne out by the other deponents. On the whole, therefore, it is not sufficiently proved that these sticks belonged to Prag, or were in his possession, though the Court believes the statement of the deponent No. 15, that he saw a bamboo in prisoner's hand just before the assault occurred. Both sticks were forwarded by the Court to the Acting Civil Surgeon, with a request that he would examine the matter with which they were stained, and, if able, determine whether they were blood or not; but he, in reply, stated his inability to analyse so small a quantity.

There are two other circumstances in evidence which weigh against the prisoner: one, his probable absence from his field until very late on the night of the assault; and the other the proved falsity of his defence as to the time of his arrival at the field, and subsequent incidents. It may be admitted that the depositions Nos. 15 and 16 do not prove the prisoner's absence from the field till midnight, merely because he was not seen until then: they however directly and most conclusively negative his statement that he arrived there at about 6 P. M.; that he reached it immediately after Putha (witness No. 15); that he then joined this witness; that they both lay down to sleep together; and that prisoner saw Putha's father eating his meal.

The Mookhee deposes to the disinclination manifested by the prisoner's father to produce the 'chowphal' (a large cloth) which is before the Court, and has even now some stains. The Court judged it useless to take the father's deposition, but the Mookhee's testimony, for reasons before stated, appears trustworthy.

The two cartmen who were near the deceased when he was assaulted have been examined, and their depositions are recorded Nos. 20 and 21. They add nothing to the

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evidence in the case; and the latter, perhaps, denies some particulars to which he could speak; but their appearance and demeanour combine with the evidence to remove from them all suspicion of criminality, while they facilitate the conception of such a possible state of apathy, as would allow two men to be within a few yards or feet of a man suffering a murderous assault, without getting up, or, if they got up, without taking the trouble to inquire what had occurred.

The prisoner admits that, after witness No. 15 left his house, he went over the very scene of the assault, saw the two carts near it, and the Gosavee's hut, where deponents Nos. 6, 8, 9, and 10 were. He also admits that he, in some way, missed near that place the deponent Putha, for whom he had promised to wait at the gate of the village, but who reached the field before him.

The evidence thus reviewed is, with the exception of the deceased's statements, entirely circumstantial. The Acting Session Judge cannot come to any other conclusion than that the prisoner is guilty. The crime is stamped with much malignity; while, on the other hand, the prisoner's youth is a circumstance which may be taken into consideration in his favour, as also that the weapon used was not necessarily a deadly one, and did not evidence such a determination to take away life as the use of the sword, so commonly resorted to in these districts.

The prisoner is convicted of murder; in having, on December 25th, 1854, (corresponding with Monday, Poush Shood 6th, Sumvut 1911,) within the bounds of Budurka, Purgunna Dholka, Zillah Ahmedabad, purposely, and without justifiable or extenuating cause, beaten one Sheebhaee Mooloo with a stick or cudgel, by which he was so severely injured that he died next day.

And the Court passes the following sentence, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut :—

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Murder.

That you, prisoner Prag Gugga, be transported beyond seas, for the term of your natural life. (Regulation XIV. of 1827, Section XXVI. Clause 4th.)

Resolution of the Sudder Foujdaree Adawlut.—Conviction confirmed; sentence twenty-five (25) lashes, and twelve (12) months' solitary imprisonment.

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BELGAUM.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 25 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. C. F. H. SHAW, Second Assistant Magistrate of Belgaum, on the 21st February 1855. Tried by Mr. A. W. Jones, Session Judge, on the 22nd, 23rd, 24th, 27th, 28th, 29th, 30th, and 31st March, and 2nd, 3rd, and 7th April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Gang Robbery with Force, by Night; Aiding and Abetting in the Crime; and Concealment of the Crime before the fact.

Prisoners.—No. 1, Honya bin Murlingapa, Lingayeet, aged 30.

2, Mhantapa bin Wasdeo, Lingayeet, aged 40.

3, Mulapa bin Satyapa, Lingayeet, aged 25.

4, Mahamadoo wulud Kumal Saheb, Mussulman, aged 25.

5, Satoo bin Tipuna, Lingayeet, aged 25.

6, Shidoo bin Rajaram, Rajpoot, aged 26.

7, Witoo bin Balapa, Mahratta, aged 40.

8, Dada bin Govindapa, Mahratta, aged 50.

9, Purbhoo bin Chunpurupa, Lingayeet, aged 32.

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Gang Robbery with Force, by Night; Aiding and Abetting in the Crime; and Concealment of the Crime before the fact.

Prisoners.—No. 10, Bheema bin Chunpurupa, Lingayeet, aged 40.
11, Sukaram bin Sutgoura, Lingayeet, aged 30.
12, Soobhya wulud Seerya, Mhar, aged 36.
13, Ghureeb wulud Mohodheen, Mussulman, aged 25.
14, Kedaree wulud Sutyumna, Mahratta, aged 20.
15, Dajee bin Khetree, Lingayeet, aged 25.
16, Babajee bin Sutgoura, Lingayeet, aged 25.
17, Mula bin Lugma, Lingayeet, aged 50.
18, Guneshyam bin Satyupgowda, Lingayeet, aged 33.
19, Kencha bin Lugma, Dhungur, aged 30.

Charge.—Against prisoners Nos. 1 to 16, gang robbery with force, by night (Regulation XIV. Section XXXVII. Clause 1st, of 1827); in having, on the night of Sunday, the 21st January 1855, (corresponding with Magh Shood 3rd, Shuké 1776,) gone to the village of Akeewat, in the Chickoree Talooka, in the Belgaum Division of the Dharwar Zillah, armed with swords, hatchets, sticks, &c., and there forcibly entered the house of one Chunumlapa, and robbed him and his family of property in gold and silver, &c., to the alleged value of Rs. 1,197-10-6.

Against prisoners Nos. 17 and 18 (Mula bin Lugma and Guneshyam bin Satyupgowda), aiding and abetting in the above crime. (Regulation XIV. Section XXXVII. Clause 1st, and Section I. Clause 5th, of 1827.)

And against prisoner No. 19 (Kencha bin Lugma),

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Gang Robbery with Force, by Night; Aiding and Abetting in the Crime; and Concealment of the Crime before the fact.

concealment of the above crime before the fact. (Regulation XIV. Section XXXVII. Clause 1st, and Section I. Clause 5th, of 1827.)

Finding and Sentence by the Session Judge.—In this case the prisoners from Nos. 1 to 16 inclusive are charged with gang robbery with force, by night; prisoners Nos. 17 and 18 are charged with aiding and abetting in the same; and prisoner No. 19 is charged with concealment of the same before the fact; and all plead not guilty.

It appears that in the middle of the night of Sunday, the 21st January, the inmates of a house in the village of Akeewat were awoke by the sound of attempts to break the doors open; and the complainant, perceiving from the shouts and glare of the torches that it was a gang robbery, took out his wives and children, who were in one division of the house, and got away into the village; but his mother and sister-in-law, being in the room into which the robbers had broke, could only retire into the inner room, where the idol was kept. There they were seized, and their personal ornaments taken from them by force. They were also slightly burnt, and threatened with further violence if they did not show where the property of one Eerya Moortee was concealed. These women state that one of the robbers had a sword, and several of them torches, and the complainant's mother says that two of them had hatchets; but they recognized no one amongst them, nor could they even tell their caste.

The disturbance at length roused the Mussulman Police Patel of the village, who was at the Chowree, and finding from a Shetsundee what was going on, he ran back to his house for his gun, and was met by his elder brother, the Revenue Patel, with it. He seized it, and fired into the crowd of robbers in front of the complainant's door, and then, with his brother, who had armed himself with a sword, attacked them; but they were beaten back and

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Gang Robbery with Force, by Night; Aiding and Abetting in the Crime; and Concealment of the Crime before the fact.

wounded, and the Police Patel lost his gun. However, they got back to their house, and there the Patel's son gave him another gun, loaded, which he immediately discharged at the robbers, who, as the shot had effect, and one of them fell, got frightened, and made off. The two Patels then went up to the house, and found a dead body near it, which they dragged in front of the Chowree, and then reported the matter at once to the Police Amuldar and Joint Police Officer.

The scar of the Police Patel's wound was nine or ten inches in length, and the two wounds received by the Revenue Patel were of about the same size. They appear to have behaved well and gallantly, and are deserving of some mark of approbation. The District Police Officer of Hookeree also seems to have acted with great promptitude in the inquiry, and the Assistant Magistrate has taken great pains in getting up the case for the committal.

It does not appear how the information as to the perpetrators of this robbery came out; but it is shown by witnesses Nos. 16 and 17, that on the day after the gang robbery, they had orders from the District Police Officer of Hookeree to arrest prisoner Dada (No. 8); and that on their doing so, he admitted his concern in it, and told them that the property was in the house of the prisoner Mhantapa (No. 2). These two witnesses, and witnesses Nos. 11 and 12, depose to having been present when the prisoner Dada came to this house, in company with the District Police Officer, the Havildar, and others, and desired the prisoner Mhantapa to give up the property obtained in the gang robbery; and they prove having seen various articles given up by him, which he took out of the ground, under a grindstone in his house. The complainant also was present at the time, and identified the things contained in the bundle thus given up by prisoner Mhantapa.

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It appears that these two prisoners confessed before the Police Authorities, and both admitted these confessions, and pleaded guilty before the Assistant Magistrate. Before the Court, however, both pleaded not guilty, and prisoner Mhantapa withdrew his confession; but prisoner Dada, on the other hand, admitted his. But the confession of the former was proved before the Court to have been voluntarily made, and there can be no doubt of its truth, considering that it is proved that a quantity of the property taken in the robbery was surrendered by him the day after it had occurred, and that he at the time acknowledged how he had obtained it.

The confessions are to the effect that these prisoners went with the rest of the party to the rendezvous, in the field of prisoner Honya (No. 1), but that they did not actually go to the village of Akeewat, but waited there till the return of the actual robbers, when the principal part of the property was given in charge to prisoner Mhantapa. This the Session Judge concludes must be considered to make them as liable to the charge on which they were arraigned as if they had actually taken a personal share in the robbery, and they are therefore both convicted of gang robbery.

Against prisoner No. 1 (Honya), it is shown that he passed out of the village gate of Neersoshee on the evening of the robbery; and witnesses Nos. 11 and 13, and the complainants, depose to his having given up to the District Police Officer a box which he had concealed in his own field, and which they saw him take from under the ground with his own hands, allowing it had been obtained in the robbery. The complainant also identified it as a box in which he had been used to keep some of his valuables. This prisoner made a full confession within a very few days of the robbery, and confirmed it, and pleaded guilty, before the Assistant Magistrate; and this confession has been proved before the Court to have

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been given voluntarily. Before the Court, however, he pleaded not guilty, and withdrew his confession; but he did this after great hesitation, and after having said that if he were pardoned he would tell how everything had happened. There can be no doubt, therefore, that his confession is true; and the Session Judge is of opinion, therefore, that he may be convicted of gang robbery, as charged.

It is shown by witnesses Nos. 20 and 28, that when the prisoners Mula and Satoo (Nos. 3 and 5) were arrested, the first was excessively frightened, and that the last tried to run away; and witnesses Nos. 11 and 21 show that these two prisoners admitted their share of the gang robbery, and gave up the gun taken from the Police Patel of Akeewat, and two hatchets used in the gang robbery. They also confessed, and pleaded guilty before the Assistant Magistrate; but withdrew this plea and their confessions before the Court. They were, however, shown to have been given voluntarily, and having been corroborated as above described, the Session Judge considers they may be convicted of the charge against them.

Against prisoner No. 4 (Mahamadoo) there is only his confession, and plea of guilty before the Assistant Magistrate; but as there is no corroboration of it, beyond its agreement with the confessions of the rest of the prisoners, the Session Judge considers he must be acquitted.

It is shown by witnesses Nos. 18 and 9, that prisoners Shidoo and Witoo (Nos. 6 and 7), who are Shetsundees of the village of Neersoshee like themselves, and employed at the same Chowkee, were not at that Chowkee throughout the whole night of Sunday, when the gang robbery took place. Witness No. 18 deposes that he saw the prisoner Witoo (No. 7) pass out of the village very shortly after the prisoner Honya (No. 1), but this being all there is to corroborate their several confessions

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made before the Police, and Assistant Magistrate, the Session Judge considers they cannot be convicted. The confession of prisoner Witoo, also, is a confession of concealment after the fact; not of having been concerned in the robbery.

The prisoner No. 9 (Purbhoo) having admitted before the Court the confession he had previously made before the Police and the Assistant Magistrate, where he had also pleaded guilty, and as in this confession he acknowledges having been engaged in the gang robbery, he is convicted thereon of the charge laid against him.

The prisoner No. 10 is a brother of prisoner No. 9; but as there is no evidence against him, beyond his own confession, and that having been withdrawn before the Court, he must be acquitted.

It is shown by witnesses Nos. 11 and 21, that after the prisoners Nos. 11 and 16 (Sukaram and Babajee) had been arrested, they admitted having been engaged in the gang robbery, and gave up some sickles, an ornament, and other things, which were identified as his own by the complainant, and which they produced from a field, where they had been hidden among some grass by these prisoners. These two prisoners also confessed before the Police, and the Assistant Magistrate, before whom they also pleaded guilty; and though they withdrew these confessions before the Court, they were shown to have been voluntarliy given, by the witnesses Nos. 38, 43, 44, and 45. These two prisoners are brothers, and it appears from their confessions, that the prisoner No. 11 concealed these articles, and that the four sickles were given to him by prisoner No. 16, who admits he had obtained them at the gang robbery. As these circumstances sufficiently corroborate their confessions, therefore, the prisoners Nos. 11 and 16 are convicted of gang robbery.

It is shown by the witnesses Nos. 22, 23, 24, 25, and 27, that the prisoners Nos. 12, 13, and 14 (Soobhya,

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Ghureeb, and Kedaree) admitted having been concerned in the gang robbery; and gave up, from their respective houses, several ornaments and other things belonging to the complainant; and their confessions, though repudiated before the Court, were shown to have been voluntarily made before the Police, and Assistant Magistrate, before whom they also pleaded guilty; and as these confessions are sufficiently corroborated by the discovery of this property in their possession, they are all three convicted of gang robbery.

It is shown by witnesses Nos. 26 and 27, that when the prisoner No. 15 (Dajee) was arrested, he was found to be wounded on the wrist, and witness No. 38, who examined this wound, states that it was, in his opinion, a gunshot wound; and as it is shown by the evidence of the two Patels that a shot was fired among the robbers before that which killed one of the robbers, and that blood was traced along the path taken by the robbers in making off,—and it is moreover shown before the Court that the prisoner's confession, though now withdrawn, was voluntarily given before the Police, and the Assistant Magistrate, and in this confession he allows that he received this wound at the gang robbery,—the Session Judge thinks this is sufficient corroboration of its truth to warrant his conviction upon it, and he is accordingly convicted of gang robbery.

The evidence against the prisoner No. 17 (Mula) is that he was several times seen in company with the persons by whom the gang robbery was committed, and that a sword and some hatchets belonging to him were used in it; but then it is shown that a relation of his was concerned in the robbery, and they may therefore have been used without his knowledge. The circumstances of the case, however, threw great suspicion on him. Nevertheless, as the evidence is not sufficient for conviction, he must be acquitted.

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There is no evidence of any kind whatever against the prisoner No. 18 (Guneshyam), and he is therefore acquitted also.

The prisoner No. 19 (Kencha) having admitted before the Court the confessions he had previously made, both before the Police, and the Assistant Magistrate, and as therein he allows he went to the rendezvous, whence the gang started for Akeewat, and had also been asked to join in it before, he is convicted of concealment before the fact.

The prisoners Nos. 1, 2, 3, 5, 8, 9, 11, and 16 are convicted of gang robbery with force, by night; in having, on the night of Sunday, the 21st January 1855, (corresponding with Magh Shood 3rd, Shuké 1776,) gone to the village of Akeewat, in the Chickoree Talooka, in the Belgaum Division of the Dharwar Zillah, armed with swords, hatchets, sticks, &c., and there forcibly entered the house of one Chemunlapa, and robbed him and his family of property in gold and silver, &c. to the alleged value of Rs. 1,197-10-6.

And prisoner No. 19 is convicted of concealment of gang robbery with force, by night, before the fact.

On consideration, therefore, of the crime of which the prisoners have thus been convicted, being of a most serious nature, and that it was perpetrated by armed men, who violently resisted and wounded the Police Authorities in their attempt to defend the house attacked, and that the prisoners Mhantapa, Dada, and Honya, were undoubtedly the chief instigators and actors in it, and after considering, also, the punishment assigned to this crime by Regulation XIV. Section XXXVII. Clause 1st, the following sentence is passed :—

That you, prisoners Honya (No. 1), Mhantapa (No. 2), and Dada (No. 8), be imprisoned and kept to hard labour, for ten (10) years; that you, prisoners Mulapa (No. 3), Satoo (No. 5), Purbhoo (No. 9), Sukaram

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(No. 11), Soobhya (No. 12), Ghureeb (No. 13), Kedaree (No. 14), Dajee (No. 15), and Babajee (No. 16), be imprisoned and kept to hard labour, for seven (7) years; and that you, prisoner Kencha (No. 19), be imprisoned and kept to hard labour, for two (2) years.

The sentence of the three first-named prisoners (Honya, Mhantapa, and Dada) to be subject to the confirmation of the Sudder Foujdaree Adawlut.

The prisoners Mahamadoo (No. 4), Shidoo (No. 6), Witoo (No. 7), Bheema (No. 10), Mula (No. 17) Police Patel, and Guneshyam (No. 18), are acquitted and discharged.

Resolution of the Sudder Foujdaree Adawlut.—The convictions confirmed, and the prisoners Honya (No. 1), Mhantapa (No. 2), and Dada (No. 8), are sentenced to seven (7) years' imprisonment, with hard labour.

The sentences of the prisoners Mulapa (No. 3), Satoo (No. 5), Purbhoo (No. 9), Sukaram (No. 11), Soobhya (No. 12), Ghureeb (No. 13), Kedaree (No. 14), Dajee (No. 15), and Babajee (No. 16), are mitigated to five (5) years' imprisonment, with hard labour.

The petition of Kencha (prisoner No. 19) is rejected.

The Court desire that a reward of fifty (50) rupees each be given to the Patels Shaik Kumal, Police Patel, and Shaik Daood, Revenue Patel.*

The Court concur with the Session Judge's commendations upon the way in which this case was promptly investigated by the Police, and put before him by the Assistant Magistrate.

* This order to reward the Patels was subsequently recalled, on it being reported that they had already been rewarded by order of Government.

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BROACH.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 1 of the Calendar of the Broach Sessions Court for 1855. Committed by Mr. E. L. JENKINS, Magistrate, on the 22nd December 1854. Tried by Mr. R. S. BAGSHAW, Acting Senior Assistant Session Judge, on the 21st, 22nd, 23rd, 24th, and 26th February 1855, and reviewed by Mr. F. LLOYD, Acting Session Judge. Proceedings submitted to the Sudder-Foujdaree Adawlut, on the petition of the prisoners Doola Juga and Nathia Goberia.]

Gang Robbery by Night, with Force; and Receiving Stolen Property, knowing it to be such.

Prisoners.—No. 1, Bhugwan Nagur, Sonee, aged 50.
2, Kooberia Dyaljee, Sonee, aged 32.
3, Gopal Khooshal, Sonee, aged 22.
4, Nathia Goberia, Wagree, aged 29.
5, Doola Juga, Durzee, aged 27.
6, Bawabhai Jeebhai, Rajpoot, aged 22.

Charge.—Gang robbery by night, with force (Regulation XIV. of 1827; Section XXXVII. Clause 1st); in having, on or about the night of the 21st November 1854, (corresponding with Margsheersh Shood 1st, Sumvut 1911,) forcibly entered the house of Teekum Pursotum Sonee, of the city of Broach, and stolen from thence property, consisting of ornaments, &c., of the value of about Rs. 576; and under Section XLI. Clause 1st of the same Regulation, with the second count, of receiving stolen property, knowing it to be such, without giving notice to the Government Authorities; in having received, and retained in their possession, property of the value below specified, which forms part of that which was stolen on the above occasion; the same having been found in their possession on the dates and places given opposite their names:—

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Numbers of Prisoners.	Value of Property found in each Prisoner's Possession.			Where found.		Date on which the Property was found.		Corresponding with	
				Village.	Talooka.				
	Rs.	a.	p.			A. D. 1854		Sumvut 1911	
1	33	0	0	City of Broach	Broach ...	November	27	Margsheersh Shood	7
2&3	146	10	0	Roonar	Jumbooseer	„	29	„	9
4	136	6	0	Bhetasee	Napar	December	2	„	12
5	52	12	0	Oometha	Napar	„	4	„	14
6	1	0	0	Kutore●....	Borsud....	„	1	„	11

Finding and Sentence by the Acting Senior Assistant Session Judge.—The prisoners in this case are charged in one count with gang robbery by night, with force; and in another, with receiving stolen property, knowing it to be such, without giving information to the Government Authorities; and in both instances all plead not guilty.

The great point against all the prisoners is the admissions made by Bhugwan Nagur (prisoner No. 1), and Bawabhai Jeebhai (prisoner No. 6), and the full confessions of the other four. The admission on the part of Bhugwan Nagur was made by him immediately after the pieces of broken gold and the rupees were found concealed in the ashes of his fire-place, and was the very thing to be expected from a man of his character, in his position; he allowed he had known of the robbery both before and after, and had received Rs. 50 to keep it concealed.

The defence he sets up, of having received the broken pieces of gold in the way of business, will not stand; for why were they concealed, if come by in a legitimate manner?

The Court considers there is ample evidence to convict Bhugwan Nagur of the second count of the charge.

Prisoners Nos. 2 and 3 (Kooberia Dyal and Gopal Khooshal) must be taken together, for they had for several months been inhabitants of the same house, and

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stolen property of the value of 146-10-0 was found in their joint possession.

The Court is of opinion that all of this recovered property may fairly be considered to belong to the complainant. It is difficult for him to identify very many of the articles, but all that is wanting is supplied by the long detailed confessions of these two prisoners, which were taken down after all this property was found in their residence, and ten 'wals' of broken gold on the person of Kooberia. Nothing can be more natural than their statements: the property was found; there was no hope; and at the spur of the moment, they both made a full admission; but the great point remains. Their statements led to the apprehension of the Durzee Doola, and the Wagree Nathia, and the seizure of other of the stolen property; and were thus, as it were, doubly confirmed; and they also implicated Bhugwan Nagur and Bawabhai Jeebhai. The guilt of both these men of the first count is perfectly apparent.

The house of prisoner No. 4 (Nathia Goberia) was searched next, and on the person of his wife was found a gold 'kuntee' worth Rs. 45, and a silver 'hansree' worth Rs. 12. These were satisfactorily identified by the complainant. This man also made a full confession, which, like the others, he has since retracted; but which the Court places perfect confidence in, from the circumstances attending it, and the natural and original tone of the statement itself.

The confession of the Tailor Doola is ample, and was sustained by his accompanying the Police Officers immediately, and pointing out his share, which has been produced in Court.

Bawabhai Jeebhai (prisoner No. 6) admitted that he knew of the robbery after its commission; and it is in evidence that he was in company with the others before its occurrence; that he and Kooberia went and purchased

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the pair of scales about the time of the robbery, to weigh the booty with; and which were found in his house, and satisfactorily identified by mark by the vender, Hurka Jortah; and that a house-breaking implement, and a bundle of 'kinkob,' corresponding with some the complainant had lost, were found in his house. There cannot be a shadow of a doubt about his being guilty of the second count of the charge.

There is no necessity for going further into the case, for the prisoners are more than fully convicted; but the Court remarks that the identification of the stolen property in a case like this is always difficult, and, in cases where it has been melted down, of course impossible, and the great point to notice is the circumstance of its finding; but here the prisoner's confessions have been ample to settle the question, except those of Nos. 1 and 6, and these involved a very trifling account; but the complainant very satisfactorily identified the gold kuntee found on Nathia's wife; he pointed out to the Court, without seeing it, the number and position of the emeralds and rubies on it, and stated that the connecting wires of the small bells attached to it were in the centre gold, and on either side copper. The hansree, found on the same woman, has even the name of the person on it who pledged it to complainant, and one of the pieces of brass found in the house of prisoner's Nos. 2 and 3 has the name of complainant's maternal uncle on it, Kaseedas Wulub. He also picked out the small brass 'lota' from a number of other vessels, and his uncle satisfactorily identified the bit of gold chain found in the house of prisoner No. 5.

Prisoner No. 1 is convicted of the second count of the charge, viz. of receiving stolen property, knowing it to be stolen, and without giving information to the Police; and the Court sentences him to suffer three (3) years' imprisonment, with hard labour; and prisoner No. 6 is

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convicted of the same offence, but as the Court does not consider him so bad as No. 1, he is sentenced only to two (2) years' imprisonment, with hard labour.

Prisoners Kooberia, Gopal, Nathia, and Doola are convicted of the first count of the charge, and sentenced to suffer each three (3) years' imprisonment, with hard labour. Subject to the confirmation of the Session Judge of Surat. (Regulation XIV. of 1827, Section XXXVII. Clause 1st, and Section XLI. Clause 1st; and Act XIX. of 1839.)

Reviewed by the Session Judge.—Having perused all the papers connected with this case, and heard Vukeel Dayabhai Suwaichund in behalf of prisoner Bhugwan, and Vukeel Jeevunram Hureeram in behalf of prisoners Gopal, Nathia, Doola, and Bawabhai, the Court is of opinion that the charge against Bhugwan and Bawabhai is in no way established: they are therefore acquitted, and ordered to be discharged.

The property found in possession of Bhugwan, and alleged to be the prosecutor's, is not proved to be so; indeed it is of such a nature, consisting of small bits of gold, and rupees, that identification is almost impossible, and the admissions made by Bhugwan, even if proved, which they are not, would not justify his conviction on the charge on which he has been arraigned.

In proof of Bhugwan's statement (recorded No. 19), the Acting Senior Assistant Session Judge caused to be read over the deposition (No. 18) of a witness, stated to be deceased, but has taken no means to ascertain the death of that witness, or to prove that such deposition was actually made by the deceased, as directed in Circular No. 323 of the Sudder Foujdaree Adawlut.

The other witness (No. 17) to this statement was not present at the time it is alleged to have been made; and the attention of the Joint Police Officer of Broach should be directed to the utter uselessness of calling on a perso

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to attest a deposition or confession who is not present when it is made.

The prisoner Bawabhai Jeebhai nowhere admits that he received any of the stolen property with a guilty knowledge; and as to the fact of the kinkob being found on his premises, there is no direct evidence of its being the prosecutor's property, nor is the prosecutor's statement respecting it at all satisfactory, or more worthy of credit than that of Bawabhai himself, who declares it to be his own, and has shown that he has some material of the same kind in his possession. The Acting Session Judge is therefore not at all inclined to coincide with the Acting Senior Assistant Session Judge, "that there cannot be a shadow of a doubt about his being guilty of the second count."

The discovering of the property in their possession, and confession of the prisoners Kooberia, Gopal, Nathia, and Doola are, in the opinion of the Acting Session Judge, sufficient to warrant the conviction recorded against them; it is therefore upheld, and their sentences confirmed.

The Acting Session Judge begs to call Mr. Bagshaw's attention to the carelessness displayed in the English proceedings: the clerical errors in some places render them almost unintelligible. The prisoners are designated, sometimes by their numbers, sometimes by name, and occasionally by caste only; which leads to great confusion, and is not in accordance with Circular dated 25th October 1854, which directs that prisoners should always be distinguished by name.

The evidence of witness No. 16 should not have been taken, as she is the wife of prisoner Nathia.

It would have been advisable to have recorded the written defence of the prisoners.

The sentence passed against prisoner Bawabhai need not have been subjected to the confirmation of the Acting Session Judge.

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Resolution of the Sudder Foujdaree Adawlut.—The sentence on the prisoners Kooberia (No. 2), Gopal (No. 3), Nathia (No. 4), and Doola (No. 5), is mitigated to two years' imprisonment, with hard labour.

The Court concur with the remarks of the Acting Session Judge upon this trial.

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NASSICK.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Cases Nos. 8, 9, and 10 of the Criminal Return of the Joint Magistrate of Nassick for January 1855. Tried by Mr. C. G. KEMBALL, Second Assistant Magistrate, on the 22nd and 24th January 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Petty Theft; Receiving Stolen Property, knowing, or having evident grounds for suspecting the same to have been Stolen; and Attempt to Commit Theft.

Prisoner in Cases Nos. 8, 9, and 10.—Taroo wulud Alybhaee, Mussulman, aged 25.

Charge in Case No. 8.—Petty theft (Regulation XIV. Section XXXIX. of 1827); in that, date unknown, in the month of December 1854, (Margsheersh Poush, Shuké 1776,) in the village of Janoree, Talooka Dindoree, of the Nassick Sub-Collectorate, Zillah Ahmednuggur, he did steal golden ornaments, and a bodice, in all to the estimated value of Rs. 5-5-0, the property of one Sukaram wulud Hureechund, Rungaree. Is also charged, under Regulation XIV. Section XLI. Clause 1st, of 1827, with having in his possession, in the abovementioned month, the abovementioned stolen property, knowing, or having evident grounds for suspecting the same to have been stolen.

These charges are read over and explained before the Assistant Magistrate to the prisoner, who pleads to them respectively not guilty.

Charge in Case No. 9.—Petty theft (Regulation XIV. Section XXXIX. of 1827); in that, date unknown, in the month of December 1854, (Margsheersh Poush,

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Shuké 1776,) in the village of Janoree, Talooka Dindoree, of the Nassick Sub-Collectorate, Zillah Ahmednuggur, he did steal two silver anklets, to the estimated value of Rs. 1-1-0, the property of one Bagee Murd Dajee, Shimpee. Is also charged, under Regulation XIV. Section XLI. Clause 1st, of 1827, with having in his possession, at the abovementioned time, the abovementioned stolen property, knowing, or having evident grounds for suspecting the same to have been stolen.

These charges are read over and explained before the Assistant Magistrate to the prisoner, who pleads to them respectively not guilty.

Charge in Case No. 10.—Attempt to commit theft (Regulation XIV. Section XXXIX.; and Section I. Clause 2nd, of 1827); in that, on the 20th December 1854, (Mitee Poush Shood 1st, Shuké 1776,) in the village of Janoree, Talooka Dindoree, of the Nassick Sub-Collectorate, Zillah Ahmednuggur, he did enter the house of one Apa wulud Baloo, Telee, in the middle of the night, with intent to steal.

This charge is read over and explained before the Assistant Magistrate to the prisoner, who pleads not guilty.

Finding by the Second Assistant Magistrate, confirmed by the Acting Magistrate, in Case No. 8.—The prisoner is charged with theft, and with having stolen property in his possession. Of the first charge there is no proof, but of the latter there appears to be sufficient for a conviction. Witnesses speak to the identity of the property produced in Court, and also to the said property having been found in the prisoner's house. The prisoner defends himself by saying that the property must have been put into his house; that he never stole it; that he was not allowed to be present at the search; and that the charge is brought against him out of enmity. He acknowledges, however, that he has been in prison before. The only

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unsatisfactory point is the fact of the complainant not reporting the theft at once; but from the peculiar features of the case, this does not materially affect the case; and the prisoner is, from the evidence before the Court, convicted of the latter charge, *i. e.* of having in his possession stolen property. There being, however, other cases against the prisoner, the sentence is deferred.

Finding by the Second Assistant Magistrate, confirmed by the Acting Magistrate, in Case No. 9.—As in the former case, the prisoner is charged with theft, and also with having stolen property in his possession. As in case No. 8, there is no evidence of the theft, and there is still the unsatisfactory point anent reporting the theft; but with the remaining evidence complete, and the complainant being an old woman, and the property of trifling value, the Assistant Magistrate considers the charge of having in his possession stolen property fully proved against the prisoner; but as there is another case pending, sentence is deferred.

Finding and Sentence by the Second Assistant Magistrate, confirmed by the Acting Magistrate, in Case No. 10.—The prisoner in this case is charged with an attempt to commit robbery. The facts of the case are these:—The complainant, a Telee, was awakened at midnight (about a month ago), by hearing a noise of some one moving in his house. He immediately called out, but receiving no answer, got up, and while groping about the room he felt some one come up against him, whom he immediately seized. A scuffle ensued, and the Telee called out for help. The Patel and villagers who were sitting at the Chowree on guard came up on hearing the cries, and seized the prisoner. The prisoner stated that he had been easing himself when the Telee seized him. This story, on investigation, however, was proved to be false. The prisoner was accordingly taken to the Chowree; and the next day, on examining the Telee's house, two cloths

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belonging to the prisoner were found there. No property, however, had been removed. Now, though there is no positive proof that the prisoner went to the house to steal, the presumption is sufficiently strong to warrant a conviction. That he could have gone to the house at the dead of night with any other object it is, from the circumstances of the case, impossible to suppose; indeed the prisoner's palpably false story damns him. From the facts of the case, and the prisoner's notoriously bad character, the Assistant Magistrate, considering the felonious entry a sufficient proof of the attempt, has no hesitation in pronouncing him guilty of the charge brought against him.

The prisoner has also been found guilty on two distinct charges of having in his possession stolen property, &c. in Cases Nos. 8 and 9. It having, however, been stated in evidence, that the prisoner was on a former occasion convicted of and punished for the crime of theft, the Assistant Magistrate determines postponing sentence, pending a reference to the Jail Record.

* * * * * *

The case having been received this day (January 24th, 1855), the prisoner is recalled. Read and recorded a previous warrant against the prisoner, dated 10th May 1843, sentencing him to one year's imprisonment, with hard labour.

From the Cases Nos. 8, 9, and 10, and the warrant here recorded, the prisoner is shown to be a person of confirmed bad character; but taking into consideration the hardship entailed on the numerous witnesses by committing him to the Sessions Court, the Assistant Magistrate determines (at the same time requesting the Superintendent of the Subsidiary Jail to retain the prisoner in custody on the expiry of the term of imprisonment, with a view to the adoption of precautionary measures) to record the following sentence:—

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That you, Taroo wulud Alybhaee, be imprisoned and kept to hard labour, for the space of eight (8) calendar months. Subject to the confirmation of the Magistrate.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The substance of the prisoner's statements should have been entered on the record.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

AHMEDABAD.

[Petition of Poonja Hameer and another, Sureties, to the Sudder Foujdaree Adawlut, praying that the Fine imposed upon them by Mr. E. W. RAVENSCROFT, Second Assistant Magistrate of Ahmedabad, on the 2nd September 1854, and confirmed by Mr. J. W. HADOW, Magistrate, may be remitted. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Forfeiture of Security Bond.

Decision of the Second Assistant Magistrate, confirmed by the Magistrate, in the Case of Poonja Hameer and Jalum Bhuga.—Poonja Hameer, Kolee, aged 32, occupation field labourer, inhabitant of Ashlalee, Purgunna Jeytulpoor, and Jalum Bhuga, Kolee, aged 45, occupation field labourer, inhabitant of Bareja, Purgunna Jeytulpoor, are received from the Police Amuldar of Jeytulpoor, and informed that they, in conjunction with Poonja Mokun, and Baejee Jugta, since deceased, gave a joint security bond to the Mamlutdar of Jeytulpoor: Raojee Krishna, on the 23rd of September 1846, (corresponding to Ashwin Shood 3rd, Sumvut 1902,) for the good conduct of the Kolees of the village of Jeytulpoor; that for the space of five years, within the limits of Jeytulpoor, there should be no description of disturbance or crime; and if they did not make such arrangements to prevent any breach of the law whatever within the said limit of Jeytulpoor, that they, the present securities, would be liable to be called on to pay the amount

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of Rs. 500, otherwise they would each and individually be imprisoned for the space of two years; notwithstanding which bond being given and delivered, it appears that within the time specified, to wit on the 7th of April 1851, (Chuitru Shood 6th, Sumvut 1907,) in the night-time, within the boundaries of Jeytulpoor, Madurjee Dulputram and others were attacked by six thieves, and robbed of property amounting to Rs. 10-4-0. The Kolees in question, by not producing the thieves, prove that they did not make the necessary arrangements which, by the joint security bond, they bound themselves to do: the present case is therefore brought to prove the bond broken, and to recover the amount of such bond from the securities, under Section XXVI. Clause 2nd, Regulation XII. of 1827.

Read and recorded the security bond, which the securities allow to be genuine and valid.

The perpetrators of the robbery in question not being discovered, it is impossible to record the warrant authorising their punishment, as laid down by the Judges of the Sudder Foujdaree Adawlut; the securities, however, allow that the robbery in question actually did take place.

The securities allow the bond to be genuine, and also allow that the robbery really took place; it therefore only remains for the Assistant Magistrate to declare the bond broken, and the securities liable. Poonja Hameer and Jalum Bhuga are therefore informed that their respective fines are one hundred and twenty-five (125) rupees each, in default of paying which they will each and individually be confined in Jail, under the above-quoted Regulation and Section, for the space of two (2) years.

Subject to the confirmation and approval of the Acting Magistrate.

Substance of the Petition of Poonja Hameer and another.—We beg that a fine of Rs. 250, imposed upon us, on each Rs. 125, as securities to the Kolees of

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AHMEDABAD.

Forfeiture of Security Bond.

Jeytulpoor, on account of a robbery of Rs. 10, the same being confirmed, on the 1st September 1854, by the Magistrate of Ahmedabad, may be annulled. In the Jeytulpoor Purgunna there is a Mamlutdar's Kutchery, and the Policemen and villagers immediately proceeded to the spot where the robbery took place : the footsteps were traced to the village of Najnee. The inhabitants of Jeytulpoor, therefore, cannot be responsible for the robbery ; but the footsteps remained in the aforesaid village, and the inhabitants of that village should be fined. But, contrary to justice, the inhabitants of Jeytulpoor are considered responsible, and we, as their securities, have been fined. No inquiry was made regarding them, nor was it proved that they committed robbery. Should, however, the Magistrate be of opinion that they did commit the robbery, they should, according to the practice of the Court, be fined in the first instance. If the principal is present, and capable to meet the demand, security is not held responsible. Papers may be called for, inquiry made, and the fine received from us may be remitted. Copy of this may be given with the order that may be passed.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

1855 May 31.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

SURAT.

Gang Robbery by Night, with Force ; and Receiving Stolen Property, having evident cause to believe it to be Stolen.

[Case of Badoora Rasla and Bhanio Buchio, submitted by Mr. H. LIDDELL, Magistrate, to the Sudder Foujdaree Adawlut, on the 19th May 1855, requesting sanction of the Court for the imprisonment of the prisoners for the space of three years, on failing to furnish Security for their Good Conduct.]

[For the proceedings in the first stages of this case, see pages 178 to 187 of Vol. II. of these Reported Cases.]

Letter from the Magistrate to the First Assistant

1855, May 31.

SURAT.

Gang Robbery by Night, with Force; and Receiving Stolen Property, having evident cause to believe it to be Stolen.

Registrar of the Sudder Foujdaree Adawlut.—In accordance with the provisions of Clause 1st, Section XXVII. Regulation XII. of 1827, I have the honour to report, for the information of the Judges of the Sudder Foujdaree Adawlut, that the prisoners, who were, along with several others, tried on a charge of gang robbery by night, with force, by the Session Judge of Surat, were, in conformity to the Resolution passed by the Sudder Court in the case, directed each by me to furnish a security for good conduct for three years, in the sum of Rs. 200, or to suffer imprisonment without labour for that period, owing to their being notoriously bad characters.

The prisoners in question, having promised to furnish the securities demanded of them, were, from the 26th August last (the date on which the order for their furnishing securities was passed), up to the 4th October following, kept in confinement in the prison attached to this Department at Surat, awaiting the appearance of their securities; and on the 5th of the lastnamed month, when they expressed their inability to furnish the securities, were sent to the Jail at Surat for confinement. I have therefore to request the favour of your obtaining the sanction of the Court to their imprisonment for the period above specified.

Resolution of the Sudder Foujdaree Adawlut.—This reference seems to be premature, as the Magistrate's twelve months' jurisdiction will not expire till the 26th August 1855. The Court see no reason for interference with his order, but the report should not be made till the period indicated by the Regulation he quotes shall have elapsed.*

* *Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.*—In returning this Precept duly executed, the Magistrate of Surat has the honour to state, that he is fully aware that the Regulations enjoin on him the necessity of making a report to the Sudder Court after the expiry of his twelve months' jurisdiction; and the

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May 31.

BROACH.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 3 of the Criminal Return of the Magistrate of Broach for February 1855. Tried by Mr. L. R. ASHBURNER, Acting First Assistant Magistrate, on the 25th February 1855. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Robbery by Day, without Force.

Prisoner.—Omer Asmal, Borah, aged 35.

Charge.—Robbery by day, without force (Regulation XIV. of 1827, Section XXXVII.); in having, on January 23rd, 1855, (Margsheersh Shood 5th, Sumvut 1911,) in the town of Jumbooseer, stolen from the house of Hasan Azum gold and silver ornaments, value Rs. 148, the property of the said Hasan Azum.

The prisoner pleads not guilty.

Finding and Sentence by the Acting First Assistant

practice prevalent in this Office appears to have been in accordance with this view. But in the case forming the subject of this Precept, Mr. Hebbert, the Acting Session Judge, insisted, under date the 12th February 1855 (No. 254), upon this Department making a reference to the Sudder Foujdaree Adawlut previous to the expiry of the first twelve months, quoting for his authority that Court's letter No. 2425, dated 6th October 1854, to the address of the Magistrate of Ahmedabad; and hence the reference in the present case was made.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—A copy of the Magistrate's Return is to be sent to the Session Judge, who is to be requested to explain why he applied the Court's letter quoted by the Magistrate to this case.

Return of the Acting Session Judge to the Precept of the Sudder Foujdaree Adawlut.—In return to the within Precept, the Acting Session Judge regrets to have to report he finds he has all along been labouring under a false impression. He understood the prisoners in question were in confinement for the forfeiture of their surety bonds, whereas they are so for not giving security. Under these circumstances, the letter quoted of course has no application to their cases. The Acting Session Judge can only express his sorrow he should have given the unnecessary trouble he has in this matter.

Resolution of the Sudder Foujdaree Adawlut.—The Session Judge to be requested to make the necessary explanation to the Magistrate.

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May 31.

SURAT.

Robbery by Day, without Force.

Magistrate, confirmed by the Magistrate.—Prisoner is by his own confession guilty of the robbery; but on examining the ornaments, it does not appear that they are worth more than Rs. 75. The guilt of the prisoner is the same, for there is no doubt had there been more he would have stolen them. The repentance and better feelings evinced by his confession before me on the 20th instant, is counterbalanced by its retraction this day, and by his attempt to implicate two men, whom there is no reason to suspect had anything to do with the robbery. Prisoner does not appear entitled to any consideration, and he is sentenced to imprisonment with hard labour, for eleven (11) months, and for one (1) month on conjee diet. (Regulation XIV. of 1827, Section XXXVII.)

Resolution of the Sudder Foujdaree Adawlut.—The Court remit the last month's imprisonment, with conjee diet.

The attention of the Session Judge is to be called to the grave error in the plea column of the Register of Petitions, wherein the plea is set down as "guilty," and a reference to the Assistant Magistrate's proceedings shows that it was "not guilty."*

* *Return of the Acting Session Judge to the Precept of the Sudder Foujdaree Adawlut.*—Full execution of the within Precept is hereby certified to the Sudder Foujdaree Adawlut, as will appear from the return of the Assistant Session Judge in charge, Broach Adawlut, No. 265, of the 14th instant.

It will be observed that the grave error alluded to in the extract of proceedings originated in a mistake of the Assistant Magistrate, which this Department had not the means of correcting.

Report by the Assistant Session Judge in charge of Broach.—The accompanying Precept is returned to the Acting Session Judge of Surat duly executed, the prisoner (Omer Asmal) therein named having been informed of the last month of his imprisonment with conjee diet being remitted.

In explanation of the grave error in the plea column of the Register of Convicts' Petitions, noticed by the Sudder Foujdaree Adawlut, it is hereby stated, for the information of the Judges, that the plea of

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AHMEDNUGGUR.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Cases Nos. 65 and 73, 66 and 72, and 67, of the Calendar of the Ahmednuggur Sessions Court for 1854, reported at pages 568 to 603 of this Vol.]

Misconduct of some Members of the Police Force.

[These cases are again referred to, in order to give the following correspondence with Government, consequent on the Resolution at page 603, to refer, for such notice as might be deemed requisite, the proceedings of some members of the Police.]

Letter from the First Assistant Registrar of the Sudder Foujdaree Adawlut to the Secretary to Government.—I am directed by the Judges of the Sudder Foujdaree Adawlut to forward, for the purpose of being laid before the Right Honorable the Governor in Council, the documents in the case of prisoners Koosa wulud Nagojee and others, together with an extract from the proceedings of this Court, dated the 5th and 12th May 1855, for such notice as the Right Honorable the Governor in Council may deem necessary to take of the conduct alluded to of some of the members of the Police Force.

Resolution of the Government.—This case discloses the painful spectacle of members of the Police Force of Ahmednuggur conspiring with men of infamous cha-

"guilty" was inserted from the Assistant Magistrate's warrant, confirmed by the Magistrate, in which the plea of the prisoner is set forth as "guilty," and not as "not guilty," which the Assistant Magistrate's proceedings show, as observed by the Court.

The enclosed petition has been made over to the prisoner Omer Asmal.

Resolution of the Sudder Foujdaree Adawlut.—It appears from the Session Judge's return that the plea of "guilty" was inserted in the warrant of the Assistant Magistrate, and a reference to the latter Officer's original proceedings shows that it was "not guilty." The attention of the Magistrate is to be drawn to this very grave mistake, in view to its avoidance in future.

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AHMEDNUGGUR.

Misconduct of some Members of the Police Force.

racter to throw suspicion upon innocent persons, by placing articles of stolen property in their houses. The Policemen against whom the charge was preferred have been convicted and punished; but the Right Honorable the Governor in Council cannot conceal his apprehension that the Subedar Ramjee and the Naique Dhokulsing were equally concerned in the crime with the Sepoys who have been punished.

It is with reference to the grave suspicion which attaches to the conduct of these men, the Right Honorable the Governor in Council imagines, that the Judges of Sudder have been induced to lay their proceedings before Government.

The Magistrate may be directed personally to institute an investigation of the conduct of these men, and to report to Government whether, supposing there be a deficiency of evidence to secure their conviction by the Session Judge, the Naique and Subedar should, in his opinion, be permitted to remain in the service of Government, or whether no grounds exist for regarding them as implicated in the conduct of the Sepoys.

If suspicion can reasonably be inferred, the men should be dismissed. Where the Police are guilty of such practices, a lax and inefficient control must have been exercised over them by their immediate heads, the Subedar and Naique; and there are grounds for imputing connivance on their part. A summary and severe example in such a case will most directly tend to put a stop to similar disgraceful conspiracies.

Captain Henry deserves credit for his prompt proceedings in this matter.

ERRATUM.

For "leave," *read* "house," in the first line of page 418 of No. IV. Vol. III.

CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN JUNE 1855.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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ARMEDABAD.

[Case No. 130 of the Calendar of the Ahmedabad Sessions Court for 1854. Committed by Mr. H. B. LINDSAY, Third Assistant Magistrate, on the 7th December 1854. Tried by Mr. H. NEWTON, Acting Session Judge, on the 18th and 23rd April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Prisoners.—No. 1, Koober Dada, Charun, aged 25. Murder.
2, Whala Dada, Charun, aged 20.

Charge.—Murder; in having, on Friday, August 18th, 1854, (corresponding with Shrawun Wud 10th, Sumvut 1910,) in the day-time, in the village of Wanswa, in the Rajkote territory, in company with one Dada Purbhoodas, since deceased, and about ten other persons, purposely, and without justifiable or extenuating cause, inflicted on one Veersing Madha sword-wounds, from the effects of which he died on August 29th, 1854.

The prisoners plead not guilty.

Finding and Sentence by the Acting Session Judge.—The prisoners are charged with the murder of one Veersing Madha, in having inflicted sword-wounds on

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Murder.

him, which caused his death eleven days afterwards. The evidence against them is contained in the depositions of the deceased, his brother, and four eye-witnesses of the assault. It appears from these, that the prisoners, and a third brother, named Buna, are the sons of one Dada Purbhoodas, who formerly lived at the village of which deceased was Mookhee; but having mortgaged his land to the latter, went with all his family, except the third brother (Buna), to reside at a village named Leea, about a 'gao' distant. The money due on the mortgage bond not having been paid, deceased, according to his brother's statement, complained to the Katiawar Authorities at Luktur. He also commenced cultivating some of the mortgaged land; but one field, in consequence of a dispute between deceased and the mortgager respecting it, lay uncultivated until the day on which the assault was committed. Deponent No. 8 states that he was aware, some fifteen days before the assault, of deceased's intention to commence cultivating this field; and on the morning of the assault, the latter sent his son and some others to clear away the small shrubs which had overspread it during the time it had been lying waste. The mortgager could doubtless have become acquainted in many ways with deceased's intention, or of the preparation which he was making for bringing the field under cultivation. Deceased supposed that Buna, the only member of the family who remained in the village, conveyed this information, and as Buna was afterwards one of the foremost among the assailants, this is probable. In whatever mode, however, the information may have been received, it is shown that at about 3 P. M. that day, some twelve or thirteen men of the Charun caste, including the prisoners, their brother Buna, and their father Dada Purbhoodas, the mortgager of the land, came to Wanswa, and after passing through the village, were going out

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at the gate, in the direction of the disputed field, when they found deceased smoking a pipe, and immediately assaulted him.

The deceased was examined on solemn affirmation two days after the assault, in the presence of the Patel of the village of Leea, to which the prisoners belong, and he then gave a detailed account of the assault, stating that he had received four sword-wounds, and four blows from clubs ; that the sword-wounds were inflicted by the two prisoners, their brother Buna, and their cousin Hamul, while Dada Purbhoodas, their father, had struck him once with a stick ; that four men whom he named were near at the time, and came up and interfered, and that they subsequently supported him as he walked to his house. These four men have been examined, and they give the fullest confirmation to the deposition of the deceased, while they are strikingly consistent *inter se*, notwithstanding the examination to which they have been subjected by the Court, and the cross-examination of the prisoner's Counsel. They deposed that they witnessed the assault from a distance of a few paces ; that they had known the prisoners from childhood ; and saw them, their brother Buna, and their cousin Hamul, armed with swords, and striking deceased, while others had clubs, and one apparently a knife, which, however, does not appear to have been used.

The deposition of the Mookhee was given on solemn affirmation before competent Authority ; and though the deceased may at the time have expected to recover, it is shown by the Inquest Report (No. 5) that the wounds which he had received were so serious that his recovery was not anticipated in less than two months. Two of the wounds are stated by the deponents to have been such as were likely to cause death ; and although no Inquest was held on the dead body, it appears unquestionable that these wounds were the cause of death.

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The prisoners, in their defence, have asserted that all the witnesses for the prosecution are related to the deceased, and that the charge has been got up through enmity. The Court has already remarked on the truthfulness of demeanour with which all the chief witnesses (the witnesses of the assault) gave their evidence; and if relationship to the deceased were admitted to be a reason why they would confirm his statements, it must also be conceded that this relationship would be one of the best guarantees of their desire to bring the true perpetrators of the murder to justice. That Veersing was wounded, and died from his wounds, is not questioned; that he or his witnesses could have failed to identify the assailants in broad daylight is scarcely conceivable; and it is still less conceivable that, while they knew who had committed the assault, they would be urged by enmity, or any other motive, to mention any others than the real assailants. On examining the prisoner's objection, however, the Court finds that not a single deponent is related to the deceased in the most remote degree. Each witness deposes to this effect; and the prisoners have not attempted to prove the opposite. It appears questionable, indeed, whether deponent No. 9 is of the same caste as the deceased; but if it be granted that he and all who witnessed the assault were fellow-castemen, the Court must still draw from this circumstance the argument, that as they could not but know the truth, they were the more likely to speak it. It is always important, in cases where it is objected that a charge has been got up through malice, to discover at how early a period, after the commission of the crime complained of, the parties charged were pointed out. In the present case, evidence on this head was available, and the Court has recorded it. Deponent No. 8 is the brother of the deceased, and has given a deposition which, equally with his demeanour, gives assurance of his truthfulness.

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Had false evidence been desired, this witness would have been the first adduced, and it would have been easy for him to have stated that he witnessed the assault. He deposes, however, that he knew nothing of it until his return from his field; immediately after it he found his brother wounded, and he then without loss of time went off to Veerumgaum, a distance of about eight miles, to give the information which could no longer be sent through the usual official channel, the deceased having been, as already stated, the Mookhee of the village. He arrived at Veerumgaum next morning, and his deposition was taken down in writing by the District Police Officer. It is recorded No. 13, and contains the statement that deponent's brother had been wounded with swords and other weapons, "by Dada Purbhoodas, and his sons and others." As this witness left the village probably within an hour or two after the assault, if not earlier, it is thus established that the charge against the prisoner was not an afterthought, but brought against them by deceased in answer to the first questions put to him respecting the circumstances of the assault.

The prisoners have called four witnesses to prove an *alibi*; and these witnesses assert that they did not leave their village for a moment during the day of the assault. As, however, this village is said by several witnesses to be but a gao, or considerably less than two miles, from the scene of the assault, it is evident that little less than a close watch on the prisoners throughout the day would have enabled any one to depose that they could not have been among the assailants. All these witnesses, however, manifest a marked determination to maintain their point, and have been thus led into statements which are scarcely credible. One would have it believed that Dada Purbhoodas was too ill to leave his bed; while another admits that he walked to Veerumgaum after his apprehension: all admit that prisoners went out of their house in

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order to call the deponent No. 17; and while they all show that they had no grounds for knowing that prisoners may not have gone at the time on some other errand, they still assert the negative with pertinacity. The Court cannot believe that any one of them would be able truthfully to say that prisoners might not have gone to some little distance, at some time on the day in question; yet their forwardness to deny this leads them to assert that they did not leave the house, even for calls of nature. One of them (witness No. 19) gave as his reason for being at home all day, that he had been tending cattle all night. Being then asked whether he had slept at all in the night while at this occupation, he said no; but when the Court next inquired how, after a sleepless night, he could spend the whole of the day, which he had set apart for rest, in observing the prisoners, he admitted that he had slept two 'ghurees' during the preceding night. Other most serious discrepancies might be pointed out; for instance, while these witnesses state that deponent No. 16 came for the price of a buffalo previously sold, one of them maintains that he brought a buffalo with him; one gives the time when prisoner went out to bring Petha Roopa as midday, while the others state it to have been 3 P. M.; and one deposes that witness No. 16 left the village on the same night, while No. 16 himself and the other two assert that he did not leave it till next morning. Deponent No. 16 also admits that the proof of this charge against the prisoners would subject him to a loss of Rs. 18, and the Court fears that such a contingency would put the conscientiousness of a man in his position to a trying test. It should be further remarked that this witness, who is the chief one, was not mentioned by either prisoner until the eleventh day after the assault, though they had been examined twice previously; and if it could be admitted that he deposes correctly as to circumstances, it is easily conceivable that he may be in

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error as to the exact day on which these circumstances happened.

For these reasons, the Court holds the evidence for the prosecution to be unaffected by that adduced on the defence. The prisoners are shown to have taken the main part in the assault, and to have been two of the four who struck deceased with swords. The malicious purpose with which they came, and the weapons which they used, give the crime a most serious aspect; while, on the other hand, the circumstances that when they had the deceased completely in their power they inflicted on him but two serious wounds, and that those two were such as allowed him to walk home supported, and were not considered when first examined likely to prove mortal, appear so far to lessen the atrocity of the offence as to leave the extreme penalty uncalled for.

The prisoners are therefore convicted of murder; in having, on Friday, August 18th, 1854, (corresponding with Shrawun Wud 10th, Sumvut 1910,) in the daytime, in the village of Wanswa, in the Rajkote territory, in company with one Dada Purbhoodas, since deceased, and about ten other persons, purposely, and without justifiable or extenuating cause, inflicted on one Veersing Madha sword-wounds, from the effects of which he died on August 29th, 1854.

And the Court passes the following sentence, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut:—

That you, prisoner No. 1 (Koober Dada), and you, prisoner No. 2 (Whala Dada), be each transported beyond seas, for the term of your natural lives. (Regulation XIV. of 1827, Section XXVI. Clause 4th.

* * * * * *

Before closing the proceedings, the Court remarks that in this, as in another case decided two days ago, an Inquest ought to have been held on the corpse, and

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Murder.

inquiries then made as to the circumstances and cause of death. Regulation XII. of 1827, Section LII. Clause 1st, provides that the Report of an Inquest thus conducted shall " be used in ulterior proceedings as evidence" ; but no such provision is made respecting an Inquest as to the character and number of wounds, committed to writing while the wounded man is still living.

It may be also noticed that the deposition of the deceased was taken two days after the assault; and the Inquest Report, which bears the same date, shows that the Members of the Inquest at that time expected the deceased to recover. He lived nine days afterwards; and as in many cases, though not specially in this, the value of a deposition of this kind would be greatly increased if it were given under a sense of approaching death, or improbability of recovery, it would be well to take a new deposition whenever the condition of a wounded man, who appeared likely to survive when first examined, becomes so much worse as to make a fatal termination probable. Evidence should also be forthcoming at the final trial, to show that such deposition was given when death appeared imminent.

The Court regrets again to notice that a wounded man has been caused to describe the length and breadth and depth of wounds which he could not see, as they were on the top of his head, and that the description given by the sufferer of each wound so exactly corresponds with that given by the Members of the Inquest, as to demonstrate that some portion at least of the deceased's deposition was supplied by another.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

The Session Judge is to be informed, that the remarks communicated to the Magistrate are concurred in.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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BROACH.

[Case No. 1 of the Broach Calendar for 1855. Committed by Mr. L. R. ASHBURNER, Acting First Assistant Magistrate, on the 16th March 1855. Tried by Mr. H. HEBBERT, Acting Session Judge of Surat, on Circuit at Broach, on the 14th May 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Prisoner.—Doolia Wunarsee, Bhungiyo, aged 32. Wilful Murder.

Charge.—Wilful murder; in having, on the night of Falgoon Shood 14th, Sumvut 1911, (corresponding with March 2nd, 1855,) in the village of Gulal, Purgunna Jumbooseer, without justifiable or extenuating cause, inflicted two blows with a 'kodalee,' or field-hoe, on the head of his wife Laroo, from the effects of which she then and there died.

Prisoner urges that he was insensible, and does not know what he did on the occasion in question,—a plea of not guilty is therefore recorded.

Finding and Sentence by the Acting Session Judge.—The prisoner is charged with the murder of his wife. The evidence for the prosecution establishes, that on the night recited in the charge, prisoner's sister was awoke by hearing deceased call out, and that, on her giving the alarm, the Wurtunia of the village came up, and at once apprehended the prisoner, with the field-hoe, with which he had just before struck his wife the fatal blow that caused her death, in his hand. The prisoner being taken to the village Chowree, and there questioned, admitted what he had done. He did the same again before the Acting First Assistant Magistrate. And even before this Court, though he will not expressly repeat his admission, he does not repudiate it. In the first instance, he asserted he had been led to strike his wife because she was gradually killing him with poisoned food. He now

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BROACH.

Wilful Murder.

goes a little further, and asserts he was, from the effects of the said food, unconscious at the time in question what he did, and of himself knows not whether he struck and killed his wife or not. He, however, has not been able to show he had any well-grounded cause of suspicion that his wife was attempting his life; she appears to have been a well-behaved woman. The only person who deposes on this point is prisoner's sister (witness No. 4); but her evidence is not, the Court thinks, to be relied on. It was not till some more direct questions were put to her, in consequence of what she had said before the Magisterial Authorities, that she mentioned anything suspicious in her brother's previous behaviour; and it is to be observed that what she has now stated does not tally very well with what she stated before; whilst, on the other hand, when apprehended, it is in evidence the prisoner was quite self-possessed, though one of the witnesses deposes he appeared weak. The Civil Surgeon has further deposed,* that so far as his opportunities of observing him go, the prisoner has evinced no signs of mental aberration since his confinement in the Jail. Still the Court is quite disposed to give the prisoner full credit for his asserted belief. Failing that, there appears to

* *Deposition of the Civil Surgeon.*—John Bean, Protestant, aged 43 years, Assistant Surgeon in the Company's Service, at present Civil Surgeon at Broach, maketh oath, and saith,—

I know the prisoner at the bar. He came under me for medical treatment, about a month ago, for a week; besides which, he has been so twice before, for shorter periods. I never saw anything in him that could lead me to think he was at all insane, or had any tendency to insanity; neither did anything occur to induce me to think him a man of particularly quick or irritable feelings. I never, in fact, saw him otherwise than perfectly self-possessed. Of the two descriptions of seed shown to me, I have no idea what one is; but the other I believe to be the 'datura' seed. The effect of the datura seed is to affect the brain and nervous system. It might also produce a burning sensation in the stomach, but that is not a necessary effect.

Prisoner asked no questions.

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Wilful Murder.

have been absolutely no motive for his conduct whatever, and he may have felt convinced his wife was gradually poisoning him, as he asserts, and have acted on that conviction, though it was entirely unfounded, and though no previous outward act of his would have led to the suspicion he entertained it. It is for this reason the Court has been less anxious to determine the character of the seeds produced before it than it otherwise would have been, as also to sift the matter of the bits of paper prisoner says were given him as a remedy for his disorder. The question then is, to what extent does the fact of the prisoner having killed his wife, under the impression she was continually giving him poison in his food in small quantities, affect his crime? Does it in any way justify it? The Court is clear it does not; the utmost it can be said to do is to divest it of the character of preconceived malice.

Under the above view, the prisoner is convicted of wilful murder; in having, on the night of Falgoon Shood 14th, Sumvut 1911, (corresponding with March 2nd, 1855,) in the village of Gulal, Purgunna Jumbooseer, without justifiable or extenuating cause, inflicted two blows with a kodalee, or field-hoe, on the head of his wife Laroo, from the effects of which she then and there died.

The Court passes on him, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut, the following sentence:—

That you, Doolia Wunarsee, be transported beyond seas, for the term of your natural life, under Regulation XIV. of 1827, Section XXVI. Clause 4th.

Minute recorded by Mr. A. Remington.—There can be no question that deceased came by her death through the wilful and unprovoked violence of the prisoner; and the Session Judge has rightly found, on the evidence, that he was in a state of mind to be made responsible.

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BROACH.

Wilful Murder.

The conviction and sentence must be confirmed.

Resolution of the Sudder Foujdaree Adawlut.—Conviction and sentence confirmed.

The requisite warrant is accordingly issued to the Session Judge of Surat, No. 43.

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BELGAUM.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 158 of the Calendar of the Dharwar Sessions Court for 1854. Committed by Mr. A. E. D. GREY, Third Assistant Magistrate, on the 28th December 1854. Tried by Mr. A. W. JONES, Session Judge, on the 13th, 14th, and 27th February, and 28th April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoner.—Rajya bin Goolapa, Bedur, aged 25.

Charge.—Murder (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st) ; in having, on Friday, the 22nd December 1854, (corresponding with Poush Shood 3rd, Shuké 1776,) in the town of Kitoor, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah, with malice aforethought, struck one Mula bin Parapa with a sword, from the effects of which he, the said Mula, did then and there die.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, but gives no answer when arraigned.

It appears that on Friday evening, the 22nd December last, a man named Mula was found lying wounded, opposite to one of the Shetsundees' guard-houses, in Kitoor ; and it is shown by witness No. 3 that the prisoner was one of the Shetsundees stationed at this guard-house, and that he had been left there in charge of the arms of the rest of the guard, and that when the body was found there, both the prisoner and witness' sword were missing.

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It is then shown that he was arrested on that Friday night, by the Police Patel of Honapoor, who had been on the look-out for him, on hearing that a murder had been committed, and that the prisoner had run away; and the Patel deposes that the prisoner admitted the crime to him. It is then shown, by witnesses Nos. 4 and 5, that the prisoner pointed out where the sword with which he had killed the deceased Mula was concealed; and admitted that it was the weapon with which he had committed the crime. This sword was identified before the Court by these witnesses; and witness No. 3 proves that the sword belonged to him, and that he had left it in the guard-house with the prisoner; and that when he went there on hearing of the murder of Mula, it was missing. It is also shown in the proceedings of the Assistant Magistrate of the 26th December, only four days after the murder, and it is proved before the Court by the witnesses Nos. 9 and 10, that the confession he had made before the District Police Officer on the 23rd was admitted by him, and even added to by him, before the Assistant Magistrate; and this confession states that he had killed the deceased as he passed before the guard-house with a load of grass; and that he had then run away, and concealed the sword in the place where it was found, and had then been arrested by the Police Patel of Honapoor; and though the prisoner says nothing when asked if this statement is true, the Session Judge has no doubt that it is, as it is sufficiently corroborated by the evidence in the case.

The Inquest Report, which was proved before the Court, shows that the deceased died of two severe sword-wounds; and the Judge is of opinion, therefore, that there is no doubt that the deceased Mula was killed by the prisoner.

The prisoner however has, ever since he has been committed for trial, refused to speak when addressed,

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and has continued this conduct throughout the trial. On this account, every witness who was examined on the two first days of the trial was questioned as to his state of mind, and every one of them stated (among them the Police Patel of Honapoor, who says he has known him ever since he was a boy) that he was, as far as they knew, of perfectly sound mind; and they had never known of his being ill, or out of his senses.

Some further witnesses were sent for, for evidence on this point: the Police Patel of Kitoor was too ill to attend; but the others mention some singular conduct of his with regard to his father and mother, which proves he was a bad son, but does not, in the Session Judge's opinion, show that he was then out of his mind.

The only thing that is in the prisoner's favour, and gives any support at all to his being of unsound mind, is the motive he assigns in his confession for committing the murder; which is, that the deceased had given him medicine in some fruit, and had made him impotent, which must be imaginary; but as he never mentioned it to any one, there is nothing to show he really believed it.

He has now, however, been two months under the observation of the Civil Surgeon, who deposes that, as far as he is able to judge, the prisoner is feigning madness, assigning several reasons for this opinion; and considering, therefore, that the whole evidence in the case goes to show that the prisoner has never been known to be out of his mind before, and the very evident object he has in pretending to be so now, the Session Judge concurs in the opinion of the Civil Surgeon*; and under these

* *Deposition of the Civil Surgeon.*—The prisoner has been detained in hospital, under close observation, for upwards of two months. My impression is that he is feigning madness, and the following are the reasons which lead me to this conclusion:—

The motive, to evade punishment.

The sudden appearance of the attack, which is unusual in real insanity.

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circumstances convicts the prisoner of murder ; in having, on Friday, the 22nd December 1854, (corresponding with Poush Shood 30th, Shuké 1776,) in the town of Kitoor, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah, with malice aforethought, struck one Mula bin Parapa with a sword, from the effects of which he, the said Mula, did then and there die.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXVI. Clause 4th, of 1827, the following sentence is passed :—

That you, Rajya, be taken to the usual place of execution in Dharwar, and there be hanged by the neck till you are dead.

Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—It is clearly proved in this case, by the prisoner's confession before the Assistant Magistrate, corroborated by the evidence on record, that the deceased met his death at the hands of the accused ; and the only doubt that remained as to pronouncing him guilty of murder was, whether his appearance of insanity on trial was assumed or real. The Session Judge very properly postponed the case until the Civil Surgeon had had time to form an opinion on this ; and the Court quite concur in the view taken of the medical and other testimony adduced to the point.

The conviction is confirmed, and the prisoner is sentenced to transportation for life.

The Session Judge is to be informed that he should have recorded a plea of not guilty.

An evident desire, on his part, to exhibit his madness.

He has always slept well and soundly.

His general health and appetite very good.

He is perfectly amenable to the influence of medicine, which is not often the case with the insane.

Absence of the peculiar odour always observable about insane people.

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BROACH.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 14 of the Criminal Return of the Magistrate of Broach for November 1854. Tried by Mr. L. R. ASHBURNER, Acting First Assistant Magistrate, on the 22nd November 1854. Confirmed by Mr. E. L. JENKINS, Magistrate, on the 4th December 1854. Reviewed on appeal by Mr. H. HEBBERT, Acting Session Judge of Surat, on the 23rd May 1855. Proceedings submitted for the consideration and final orders of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Having in their Possession Stolen Property, knowing it to be such.

Prisoners.—No. 1, Odia Madia, Koomar, aged 24.
2, Bechur Jita, Kolee, aged 40.
3, Motee, wife of Bechur Jita, Kolee, aged 30.

Charge.—Having in their possession stolen property, knowing it to be such, without giving information to the Police (Regulation XIV. of 1827, Section XLI.); in having, on November 16th and 17th, 1854, (Kartik Wud 11th and 12th, Sumvut 1911,) had in their possession, in a certain field of the village of Chidra, silver ornaments and wearing apparel, value about Rs. 25, besides Rs. 36¼ of Doosshai and Syasai currency, and notes and bonds in favour of Witul Mungul, amounting to Rs. 180-4-0, prisoners well knowing that this property had been stolen on the 7th November from the house of Witul Mungul, of Chidra, in Jumbooseer.

The prisoners Nos. 1 and 2 plead guilty, and prisoner No. 3 pleads not guilty.

Finding and Sentence by the Acting First Assistant Magistrate.—Prisoners Nos. 1 and 2 are guilty of receiving stolen property, knowing it to be such, and without giving information to the Police. They are sentenced to eleven (11) months' imprisonment, with hard labour, and for one month on conjee diet; they are further each fined Rs. 50, to be recovered under Act XVI. of 1850, and given to Witul Mungul. Prisoner No. 3 is

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discharged. I do not believe that the prosecutor lost so much money as he states: tile-making must be a more profitable trade than is usually supposed, to have enabled him to make so much money. The Joint Police Amuldar, I think, deserves credit for the way he has conducted this case, or rather for not conducting it in an improper manner: it is one of the few cases that have come before me where the confession was a genuine one, and not extorted by violence or threats. (Regulation XIV. of 1827, Section XLI.)

Confirmation of the Magistrate.—The sentence to undergo imprisonment for eleven months with hard labour, and one on conjee diet, is confirmed; but the latter part, ordering a fine of Rs. 50 each to be levied from the prisoners, is reversed.

The Magistrate thinks it necessary to remark, that he considers that the prisoners ought in this case to have been charged with robbery.

Reviewed by the Acting Session Judge on Appeal.—Having perused the record and proceedings, the Court finds the prisoner was, with another, tried and convicted of having certain stolen property in his possession, knowing it to be such, without giving information to the Police. In his deposition, however, given before the First Assistant Magistrate, he confessed that he had stolen the said property, as did his companion also. His confession is meagre, and appears to have been taken down in great haste; but still, under the circumstances, the Court does not see how the present conviction can stand.

The Court considers the prisoners should be tried for the major offence they admitted having committed, and the present conviction be annulled.

This being opposed to the recorded view of the late Magistrate, who has affirmed the present conviction, though he too thought the prisoners should have been tried for robbery, the Court will hand up the proceedings

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for the final orders of the Judges of the Sudder Foujdaree Adawlut, under Regulation VIII. of 1831, Section III. Clause 3rd.

Letter from the Acting Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—Under the provisions of Regulation VIII. of 1831, Section III. Clause 3rd, I have the honour to submit, for the consideration and final orders of the Judges of the Sudder Foujdaree Adawlut, an extract from my proceedings in the case of the prisoner Odia Madia, convicted by the Acting First Assistant Magistrate at Broach of having certain stolen property in his possession, knowing it to be such, without giving information to the Police. I also submit herewith the whole of the papers and proceedings in the case alluded to.

Minute recorded by Mr. A. Remington.—The Session Judge may be told that the Court consider that robbery would have been the proper charge to prefer; but as the case does not come before them on petition, and the date of conviction is not very recent, they do not recommend a fresh trial.

Minute recorded by Mr. W. H. Harrison.—In this case it is argued, not that the evidence does not support the charge on which the prisoner is convicted,—receiving stolen property,—but that it would support something more, viz. conviction of the robbery itself. The Magistrate had already noticed this, and I do not concur with the Session Judge that it is ground for annulling the sentence.

Resolution of the Sudder Foujdaree Adawlut.—The Court see no cause to interfere further than to remit the conjee diet prescribed for the last month of imprisonment.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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BROACH.

[Case No. 2 of the Criminal Return of the Magistrate of Broach for December 1854. Tried by Mr. E. L. JENKINS, Magistrate, on 11th December 1854. Reviewed on Appeal by Mr. H. HEBBERT, Acting Session Judge of Surat, on the 23rd May 1855. Proceedings submitted for the consideration and final orders of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Attempt to Destroy Property by Fire.

Prisoner.—Wusta Vahaljee, Bheel, aged 40.

Charge.—Attempt to destroy property by fire (Regulation XIV. of 1827, Section XLII. Clause 1st, and Section I. Clause 2nd); in having, on or about the night of the 19th November 1854, (corresponding with Kartik Wud 14th, Sumvut 1911,) wilfully and maliciously placed a 'gota' on the 'chupper' of the house of Madow Huree and Huree Rugonath, of the village Sumare, in the Anklesur Talooka, with the same on fire, and so causing injury to the said Madow Huree and Huree Rugonath.

The prisoner pleads not guilty.

Finding and Sentence by the Magistrate.—The prisoner has no witnesses to call in his defence; and as the Magistrate considers the charge specified to be fully established, the prisoner is sentenced to be imprisoned for twelve (12) months in the Broach Jail, eleven (11) months with hard labour, and one (1) month on conjee diet.

Reviewed by the Acting Session Judge on Appeal.—Having perused the record and proceedings, the Court sees no ground for interference with the conviction; but, under all the circumstances of the case, considers the sentence very heavy. The Court would mitigate it to six months' imprisonment, with hard labour.

This being opposed to the recorded opinion of the Magistrate, the Court will hand up the proceedings for the final orders of the Judges of the Sudder Foujdaree

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Attempt to Destroy Property by Fire.

Adawlut, under Regulation VIII. of 1831, Section III. Clause 3rd.

Letter from the Acting Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—Under the provisions of Regulation VIII. of 1831, Section III. Clause 3rd, I have the honour to submit, for the consideration and final orders of the Judges of the Sudder Foujdaree Adawlut, an extract from my proceedings in the case of the prisoner Wusta Vahaljee, convicted by the Magistrate of Broach of attempt to destroy property by fire. I also submit herewith the whole of the papers and proceedings in the case alluded to.

Minute recorded by Mr. A. Remington.—Except that conjee diet is objectionable as a punishment in the Broach Jail, I would not interfere with the sentence, which was deserved by so serious an offence as attempting to set fire to a house at night.

Resolution of the Sudder Foujdaree Adawlut.—The Court will not interfere with the sentence, which was fully deserved by so serious an offence as attempting to set fire to a dwelling-house at night.

The Court remit the conjee diet prescribed for the last month of imprisonment, considering it to be an injudicious punishment when awarded for so continuous a period.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

TANNA.

[Notice issued by Mr. G. B. SETON KARR, Magistrate of Tanna, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 26th May 1855.]

Notice by the Magistrate.

Notice, under Section XIX. Regulation XII. of 1827, is hereby given, that all persons are prohibited from letting off fireworks in the towns of Bhewndy, Nizampoor, and Teleepora.

* * * * * *

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The same has been issued in the towns of Panwell, Callian, and Bassein.

TANNA.

Notice by the Magistrate.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to enclose, for registry by the Court of Sudder Foujdaree Adawlut, a copy and a translation of an injunction issued by me under Section XIX. of Regulation XII. of 1827, in the towns of Panwell, Callian, Bhewndy (including Nizampoor and Teleepora), and Bassein.

Resolution of the Sudder Foujdaree Adawlut.—To be recorded.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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DHARWAR.

[Reference from Mr. T. OGILVY, Magistrate of Dharwar, on the 19th May 1855, to the Sudder Foujdaree Adawlut, in respect to a man who had returned to the Zillah, from which he had been expelled.]

Returning from Expulsion.

Prisoner.—Bishtapa bin Ningapa, Ketree, aged 30.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to request that you will do me the favour to bring to the notice of the Judges of the Sudder Foujdaree Adawlut, that a prisoner named Bishtapa bin Ningapa, referred to in the Registrar's letter to the Session Judge of Dharwar, dated the 19th May 1845, No. 524, was, on being forwarded by the Session Judge to the Magistrate for precautionary measures, and having failed to furnish the security demanded from him, expelled from the Zillah on the 12th June of the same year.

That individual has presented a petition, praying that the sentence of expulsion pronounced against him may be cancelled; and as it appears that he is a Native of the village of Teygoor, Talooka Dharwar, Zillah Dharwar, and therefore not liable to the penalty of expulsion under the provisions of Section XXVIII. Regulation XII.

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DHARWÁR.

Returning from Expulsion.

of 1827, I have the honour to request that you will obtain the authority of the Judges for me to recall the sentence.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner was arraigned as a Native of the Zillah, and the order of expulsion being shown to be illegal, it must be cancelled.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

KAIRA.

[Case No. 5 of the Calendar of the Ahmedabad Sessions Court for 1855. Committed by Mr. F. F. ARBUTHNOT, Third Assistant Magistrate of Kaira, on the 15th January 1855. Tried by Mr. H. NEWTON, Acting Session Judge, on the 26th and 27th April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Murder; and Instigating and Aiding in the aforesaid Murder.

Prisoners.—No. 1, Haruckla Rupa, Bhoee, aged 25.

Charge.—Against prisoner No. 1 (Haruckla Rupa), murder; in having, on the night of Friday, December 29th, 1854, (corresponding with Poush Shood 10th, Sumvut 1911,) in the town of Lunbashee, Purgunna Matur, in the Kaira Division of the Ahmedabad Zillah, purposely, and without justifiable or extenuating cause, deprived of life a woman named Lukhee, the wife of Bechurya Khora, by cutting her throat with a reaping-hook, so that she then and there died.

The prisoner pleads not guilty.

Finding and Sentence by the Acting Session Judge.—The prisoner and two others were committed on a charge of murder. These latter were at most chargeable but as accomplices, and there appeared no evidence to establish their criminality even to that degree. The Court, therefore, concurring with the recommendation of the committing Officer, offered them a pardon, not so much

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in the expectation that they would disclose what they knew, which, from their relationship to the prisoner, was improbable, as with a view to obtaining the depositions of their wives, which the case needed. They were therefore discharged and pardoned, on their promise fully and faithfully to state what they had seen.

In addition, therefore, to the depositions of the two witnesses to the murder (Nos. 10 and 11), the Court has been able to record the evidence of four other persons (witnesses Nos. 1, 2, 3, and 4), who were close at hand when it occurred, and fully acquainted with its chief circumstances. Of these witnesses, No. 1 is the prisoner's brother, and he persists in asserting utter ignorance of the whole transaction, though a searching examination has elicited from him unguarded statements, which conclusively show that he was present; and the testimony of five other witnesses, equally with his own contradictory statements, make it plain that he has perjured himself. Deponent No. 2 is prisoner's uncle; and though he gave a tolerably straightforward account of much that happened until prisoner entered the house where the deceased Lukhee was, he at this point manifested a natural desire to pass over the circumstances most directly condemnatory of the relative, with whom he had been so short a time before associated under a common charge, and in one common danger. The Court however succeeded, after much questioning, in obtaining from him such particulars as would alone leave little doubt of the prisoner's guilt. The women (witnesses Nos. 3 and 4) are the wives of deponents Nos. 1 and 2; and the Court believes that they have in general deposed truthfully, and that the discrepancies between their statements *inter se*, and those of the other witnesses, have been occasioned mainly from want of accurate recollection or observation of the incidents narrated, or from

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the confusion and fright which the circumstances which they saw must necessarily have produced, and possibly, in some few instances, by a desire to set their husbands beyond suspicion. Deponents Nos. 10 and 11 thus become the most unexceptionable witnesses in the case, and their demeanour has impressed the Court with the belief that they have not intentionally perverted any circumstance deposed to, while their evidence is the least liable to exception, and furnishes the most succinct narrative of what occurred. It is in every material particular corroborated by the testimony of more than one of the prisoner's relatives.

The circumstances under which the murder took place, as collected from these depositions, were as follows:—Bechurya, the husband of the deceased woman, had left his home a day or two before, with the intention of remaining on business for about two months at another village. He states that before he left he had engaged the boy Gugla (witness No. 10), at 8 annas a month, to take care of his field, and sleep at his house during his absence. Gugla's statements are to the same effect, and so are his brother's (witness No. 11). He accordingly went to sleep at Bechurya's house, either on the first or second night after Bechurya's departure; and the prisoner, either seeing him enter the house, which adjoined his own, or becoming in some other way aware that he was there, roused his own brother Kurshuneea (witness No. 1), his uncle (witness No. 2), and Gugla's brother (witness No. 11). The wives of the two first witnesses accompanied or followed them, and the prisoner, on arriving at the house or hut in which Lukhee was, called out, and asked her whether Gugla was there. She answered in the affirmative; and the prisoner then pushed open the wicker door, which was unsecured, and went into the house. The boy Gugla deposes that the prisoner then immediately seized Lukhee, a girl

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probably some sixteen or eighteen years old, and dragged her into an inner room; that he immediately afterwards heard a strange noise proceeding from her throat, as though she were being suffocated, and supposing that prisoner was murdering her, and would murder witness also, he then left the corner in which he had concealed himself, ran away through the door, and went directly to a village, where his relatives resided, some 14 or 15 kos distant, from which, however, he returned on the following day. He states that he did not see what took place in the inner room, as a wall concealed prisoner and Lukhee from his view; but that a sufficient amount of light (it being near full moon) entered the hut to have permitted him to see what occurred had no wall intervened.

The deposition of Gugla's brother Hurkla (witness No. 10) manifests a striking absence of desire to injure the prisoner. This deponent also saw prisoner enter the house, and heard him threaten to murder Lukhee, but did not see him seize her, or hear the sounds as of one being suffocated, mentioned by Gugla.

The pardoned accomplice (witness No. 2), though he has striven hard to conceal his relative's guilt, yet admits that after prisoner entered the house he heard a noise which made him suppose that Lukhee's throat had been cut, and that at that time no one except the prisoner and Lukhee was in the house. It is evident that he might have deposed to much more, since deponents Nos. 3, 4, 10, and 11 concur in stating that he and prisoner's brother Kurshuneea begged the prisoner to loose Lukhee, and not to murder her.

The deponent No. 3 is the wife of the accomplice Rupa, and though it is difficult to reconcile her narrative respecting the order in which she and the different witnesses arrived at the scene of the murder, her testimony to what occurred subsequently is sufficiently consistent. Through her husband she is connected with the prisoner;

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yet she deposes, with apparent truthfulness of demeanour, that she went into the house after the prisoner, and saw him in the act of cutting Lukhee's throat; that he was sitting on one side, got up on seeing her, and gave her a push as he went out. She states that she did not see the weapon with which he committed the murder, but saw him making a sawing motion with his hand. She also heard the gurgling noise, to which three other witnesses depose; and her statement that she went into the house, though no other person except the prisoner is said to have entered it, is borne out by the evidence of the next deponent.

The witness No. 4 is the prisoner's sister-in-law, the wife of the accomplice Kurshuneea, who, as before stated, has certainly committed perjury to save his brother. She too, when she first came into Court, appeared likely to follow her husband's example; and the Court, after losing much time in endeavouring to obtain answers from her, was compelled to order her into confinement until she should be willing to depose. She had scarcely left the Court, however, when she requested that she might be allowed to return, and her whole demeanour was thenceforward changed from sullenness and obstinacy to apparent truthfulness. Instead of merely stating, in answer to each question put to her, that whatever she had before written was true, she gave a detailed account of what she saw; and her narrative harmonizes with that of the other deponents. She states that she saw Lukhee lying on a 'charpaee,' when the prisoner seized her, and carried her into another room, from which she immediately afterwards heard a gurgling noise proceed. She subsequently saw the prisoner come out of this room, but did not see what occurred while he was within. She also deposes, that with the exception of the woman Sakur (witness No. 3), prisoner was the only person who entered the house.

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Five witnesses—one his relative, and two others connected with him—thus depose to circumstances which, if true, leave no doubt as to his guilt; and the Court has every guarantee for the veracity of some at least of them, as their disinclination to give evidence against the prisoner has been extreme. A short time after prisoner came out of Lukhee's house, perhaps an hour or more, he went to the Mookhee of the village, and is stated by that deponent, whose evidence is recorded No. 12, to have reported that Lukhee had hanged herself. Deponent accompanied him to the house, and found Lukhee dead, with her throat cut, and a reaping-hook, with which the murder had evidently been committed, lying near the corpse, covered with blood. As caste prejudices prevented the Mookhee from putting his hand to the corpse, the Court has been unable to discover whether it was warm or cold, and, consequently, what time had elapsed between the murder and the information given by the prisoner. When examined next day by the District Police Officer, the prisoner admitted that he had seen Gugla enter the house, had roused deponents Nos. 1, 2, and 11, gone to the house, pushed open the door, and seized Gugla, though he denied that he had seen Lukhee; and these statements the prisoner does not deny before the Court.

It is remarkable that the prisoner has not directly charged any other party with the murder. He states, however, that he arrested Gugla in the house where Lukhee was, and made him over to the care of his brother Hurkla, and perhaps would suggest that Gugla perpetrated the crime. His uncle (witness No. 2) goes further, and states that the gurgling noise which he heard was "as though she had cut her own throat, being a woman of respectable character, or as though the 'ore' (Gugla) might have cut it." The bias to which these statements owe their origin is sufficiently evident; and

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this witness was subsequently compelled to admit that Gugla could not have committed the murder, since he (witness) had before stated that he had seen her alive, and in the act of adultery, when prisoner entered; that prisoner immediately on entering seized Gugla, and that this noise was heard after Gugla had been brought outside the house. The boyish appearance of Gugla would under ordinary circumstances be sufficient to rebut any insinuation that he was the murderer; and the presumption in his favour is confirmed by all the evidence recorded except that of the deponent under consideration, whose testimony is shown to be worthless. He is also the only witness who supports the prisoner's statement respecting the seizure of Gugla: all the other witnesses, his own wife included, depose that Gugla ran away after the prisoner had seized Lukhee. The suggestion which this witness makes in his nephew's favour, that Lukhee may have committed suicide, is equally untenable, since the wound on her throat was found to be so severe as to have severed her windpipe, and the infliction of such a wound, with such a rude instrument as the reaping-hook before the Court, must have required not only another hand, but a powerful one.

It is in evidence that the prisoner, when he went into Lukhee's house, took with him an iron-bound stick, which he often carried, and this stick he left in the house, where it was found after the murder. Evidence of this kind is, however, scarcely needed, since the prisoner does not appear, even before the Court, to deny that he entered the house.

The Court would have expected in such a case to find evidence as to the discovery of blood stains on the prisoner's person. No satisfactory testimony is, however, recorded on this point. Deponent No. 3 states that she saw blood on his 'dhotur' when he came out of the house, and that he then went in the direction of a tank

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which was in the vicinity. It is difficult, however, to suppose that he washed his dhotur and dried it before he went to the Mookhee, although the time which elapsed before he went is not determined with any precision. It may be, indeed, that the Mookhee did not carefully examine him immediately after the murder was discovered, although he asserts the contrary. It is certain, from the appearance of the reaping-hook before the Court, which is covered with blood, that the hand, if not the clothes of the person using it, must at the time have exhibited evidence of the murder; the mark of a bloody hand was found close to the deceased, on a wall, against which it had apparently been rubbed, in order to free it from the blood, and the mark of a bloody foot was noticed on the floor of the house, at the same time. The prisoner might, however, most easily have washed his body before he went to the Mookhee, who, indeed, states that he found the prisoner's hands and feet somewhat damp when he examined him. The woman Sakur (witness No. 3) deposes that she saw the prisoner rub the blood from his hands against the wall; but though the unsubstantial roof of the hut, and its broken wall, window, and open door, may have admitted considerable light, her testimony on such a point, if not borne out by inferences, would be liable to question.

In estimating the prisoner's guilt, there are two circumstances which must be taken into consideration. The first is the motive for the crime, and the second the degree of premeditation. On the first point, the deponent No. 2 has not hesitated to depose that prisoner detected Lukhee and Gugla in the act of adultery; though this statement is proved utterly false, not only by all the circumstances of the case, but by the testimony of every other witness. The prisoner himself has made no such statement, though he mentions his suspicion that Gugla had entered the house for that purpose. It

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is, however, not only proved that the prisoner did not detect the deceased and Gugla in any such circumstances as would justify violence (unless, indeed, Gugla's presence in the house be considered a circumstance of this character), but the Court is further of opinion, that Gugla's appearance would not have permitted such a suspicion to arise in prisoner's mind. Some evidence is recorded on the point, but it is necessarily inconclusive: the Acting Civil Surgeon would have been examined, but it was found on reference that he was unable to give a decided opinion either one way or the other. If it be admitted, however, that Gugla had arrived at the age of puberty, and that prisoner supposed him to have unauthorisedly entered Bechurya's house, it is very questionable whether any except the husband would have been justified in using any violence. Bechurya, however, asserts that Gugla had been instructed by him to sleep in the house, and Gugla and deponent No. 11 coroborate this statement. The prisoner also appears to have been at variance with Bechurya, and was therefore not likely to be very jealous of preserving his honour during his absence. Bechurya, indeed, states that prisoner had threatened to kill him and his wife, and had demanded that Gugla should be sent away from the house; but an adequate motive for a serious threat of this kind has not been shown.

With regard to the second point, it is shown that prisoner, though he took with him into the house a stick, with which he might have inflicted fatal injuries, yet used a reaping-hook belonging to Bechurya, which he must have found in the house after he entered it. To a certain extent, this argues absence of premeditation; for although his conduct before entering the house, and the appearance of anger with which he is shown to have entered it, lead to the conclusion that he intended to do some grievous bodily injury to deceased or Gugla, it can

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scarcely be supposed that he knew beforehand where he might find the reaping-hook, and had determined to use it. His calling together his two relatives and Gugla's brother, before going to the house, would also seem to argue rather that he intended some minor violence than murder.

On the evidence thus reviewed, the guilt of the prisoner appears established; and though the two circumstances last considered may be pleaded as in some degree extenuatory of an otherwise most atrocious crime, the Court does not feel justified in passing any other than the extreme sentence of the law against the prisoner, but will leave the degree of extenuation which these circumstances afford to the consideration of the superior Court.

The prisoner is therefore convicted of murder; in having, on the night of Friday, December 29th, 1854, (corresponding with Poush Shood 10th, Sumvut 1911,) in the town of Limbashee, Purgunna Matur, in the Kaira Division of the Ahmedabad Zillah, purposely, and without justifiable or extenuating cause, deprived of life a woman named Lukhee, the wife of Bechurya Khora, by cutting her throat with a reaping-hook, so that she then and there died.

And the Court passes the following sentence, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut:—

That you, prisoner Haruckla Rupa, be hanged by the neck till you are dead, at the usual place of execution at Ahmedabad. (Regulation XIV. of 1827, Section XXVI. Clause 4th.)

* * * * * *

As sufficient evidence appears on record to show that the witness Kurshuneea Rupa was present outside Lukhee's house when the murder was committed, knew what was going on, and even urged prisoner to desist, five witnesses deposing to these points, he is forwarded to

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the Magistrate, that a charge of perjury may be preferred against him.

The Court questions whether the frequent practice of Magistrates to recommend the pardon of accomplices, instead of granting it, when their evidence is necessary in a case, is either regular or expedient. The Regulations do not appear to contemplate that the Sessions Court should take the place of a prosecutor nearly to such an extent as it is usually compelled to do, but rather lay on the Magisterial Officers the duty of determining what evidence should be procured and handed up for the prosecution in each case. On the point now referred to, this appears expressly provided, since Regulation XII. of 1827, Section XXXIV. enacts that "the Magistrate shall have authority to *grant* a pardon," while the Court of Circuit or Sessions Court is merely competent to "*direct* a pardon to be offered"; a provision intended, in the Court's opinion, to apply to exceptional cases only, in which the Magistrate had omitted to grant a pardon where desirable. It may be also questioned whether an accomplice is not more likely to speak the truth at the commencement of proceedings before a Magistrate, than subsequently before the Sessions Court, when he has, perhaps, committed himself to opposite statements, by two or three denials; and having once given a deposition on solemn affirmation, there will be grounds for expecting that he will abide by it; or, should he fail, he will at any rate be with certainty convicted of perjury.

This course is opposed to the Sudder Foujdaree Adawlut's Circular No. 327, of the 14th October 1845; but the Magisterial Officers may not have noticed that this Circular has been cancelled by Circular No. 473 of the printed collection, possibly on the grounds which induce the Court now to refer to the subject. Since, however, this case will go before the Judges of the Sudder Foujdaree Adawlut, the Court will not in the

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mean time issue any instructions to the Magistrate on the subject.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed.

In consideration of what the Session Judge has recorded at pages 56 and 57 of his English proceedings, the Court sentence the prisoner to transportation for life.

The Acting Session Judge is to be told that the Court concur in his remarks in respect to pardoning approvers, and request he will draw the attention of the Magistrate and his Assistant to printed Circular No. 27, dated 2nd June 1853, issued by Government in the Police Department.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 55 of the Calendar of the Ahmedabad Sessions Court for 1855. Committed by Mr. L. R. ASHBURNER, First Assistant Magistrate of Kaira, on the 27th April 1855. Tried by Mr. H. NEWTON, Acting Session Judge, on the 15th, 17th, and 18th May 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

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Prisoners.—No. 1, Bechur Joga, Kolee, aged 25.
2, Chuba Mooljee, Koonbee, aged 25.
3, Dhuneea Bhowan, Kolee, aged 16.
4, Runchore Jalum, Kolee, aged 25.

Charge.—Murder; in having, on or about the night of February 27th, 1855, (corresponding with Falgoon Shood 11th, Sumvut 1911,) within the limits of Turnoli Purgunna Nuriad, in the Kaira Division of the Ahmedabad Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Aba Kuhana, by cutting his throat with a knife.

The prisoners plead not guilty.

Finding and Sentence by the Acting Session Judge.—

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The only direct evidence to the murder is the deposition of the accomplice Runga, the deceased man's wife. To detail all the circumstances to which she deposes would be but to recapitulate her evidence. The Court therefore only remarks, that according to her narrative, she went a few days before last Hoolee (or March 3rd last) to the village where her husband, with whom she had not been living for some months, was in service; that the prisoner No. 3 (Dhuneea) accompanied her; that they both went to the house of prisoner No. 1 (Bechur), and that, as her husband did not seem desirous that she should remain with him, she and prisoner No. 3 (Dhuneea) set out again, to return to the village from which she had come. She then deposes that her husband overtook her, and that they three spent the night at Anund, at the house of one Kesra, her sister's husband; that they all left next morning, and just outside the village met the prisoner No. 1 (Bechur), who accompanied them; that after wasting time in sitting by the road side, they were joined in the evening by the prisoner No. 2 (Chuba); turned a little aside from the road to the village of Chikodra, which was their destination, and again sat down under a tamarind tree near a well, until the three prisoners (Nos. 1, 2, and 3) suddenly seized her husband, and murdered him by cutting his throat. She first states that the prisoner No. 1 (Bechur) was the actual murderer, and this evidently is her impression; but on being further questioned, she admits that she cannot speak positively on the point. The prisoner No. 2 (Chuba), she says, was at her husband's feet, while No. 3 (Dhuneea) and No. 1 (Bechur) were at his head; and the knife with which the deed was perpetrated she states to have been previously in possession of prisoner No. 3 (Dhuneea). After the murder, the prisoners, she deposes, threw the corpse into a dry well, and covered it with thorns and branches.

Both her demeanour and her narrative lead the Court to believe that she has deposed with truthfulness to the circumstances under which the murder was committed. As the crime appears to have preconcerted, it is probable that her husband accompanied her and prisoner No. 3 (Dhuneea) in consequence of some inducement or solicitation, which she conceals as criminatory of herself. It is possible, however, that the prisoners may have made arrangements without her knowledge, and used her to some extent as an instrument in inveigling deceased from the village, without making her cognizant of their purpose. She admits that she had been holding an illicit intercourse with these three prisoners; and it is also stated by deponent No. 12, that deceased was a man of such simplicity as would make him an easy prey to any who had motives for injuring him.

The depositions Nos. 7 and 8 sufficiently confirm the statement of the accomplice Runga, that she, her husband, and the prisoner Dhuneea, slept on the night referred to at her brother-in-law's house at Anund, and that they all three left together next morning, after which deceased was not again seen alive by any deponent. It is also proved that Runga was missing for about a month afterwards, and that she was found at Dakor, whither she states that she was conducted immediately after the murder by the prisoner No. 2, lest, if she returned to her own village, she might mention it.

A few days after deceased's disappearance, his mother questioned the witness Kesra (No. 7) respecting him, and was told that he had slept at that deponent's house. Some twenty-five days, however, appear to have elapsed before any search was made for him, and deceased's uncles (deponents Nos. 5 and 6) then again questioning Kesra, and finding that when deceased was last seen alive prisoner No. 3 (Dhuneea) was in his company, went to that prisoner's house, to make further inquiries. Prisoner

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No. 3 (Dhuneea) was not at home, and is shown to have been absent at least some four or five days previously; but on searching his house they found a reaping-hook, which Kesra believed to be identical with one which deceased had had in his hand when he came to, and when he left, his house. This reaping-hook the deceased's wife deposes to be that which was in her husband's possession; but she is probably in error, since his employer (witness No. 12), to whom the hook carried by the deceased belonged, and who may be supposed to be best able to recognise it, states that it is not the same. Its discovery, however, and the belief that it was that which had been seen with deceased, raised suspicions in the minds of his uncles, which led them to search the neighbouring wells, until they discovered a corpse, partly decomposed and partly dried up, in a dry well, in the locality towards which Runga states that deceased was taken. The Inquest Report and depositions recorded show that, from a cloth found upon the corpse, and some peculiarities on one foot, which are very vaguely and contradictorily described, the relatives of the deceased and other witnesses felt assured that the corpse was that of the missing man Aba, and the body was so far undestroyed that all who saw it speak to the throat having been so cut that the head was connected with the body only by a bit of skin at the back of the neck. On the day after the body was taken out of the well, Runga, deceased's wife, was brought there, and identified it, and the cloth round it; and stated that the well in which it was found was that into which her husband's corpse had been thrown by the prisoners. He appears to have had other clothes, and a pair of shoes, when murdered, but these have not been found.

The Acting Session Judge considers the identity of the corpse established. The peculiarity of the foot, if any existed, is so ill described, that little weight can be attached

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to the evidence on this point, though it may be held to show that there was some resemblance, or at any rate no observable difference, between the foot of the corpse and that of the deceased. The testimony to the cloth found with the body is, however, much stronger; and when taken in connection with the evidence which the body bore, that the throat had been cut, and with Runga's deposition, there appears no room for doubting that the corpse was that of Aba.

That Aba was murdered, the Court therefore considers proved; and the degree to which each prisoner is affected by the evidence is the only point remaining for consideration. Against the prisoner No. 4 there is no evidence, and the decision in the case of the other three prisoners depends entirely on the provisions of Regulation XII. of 1827, Section XXXV. Clause 2nd, and Regulation XIII. Section XXXVII. Clause 2nd.

The former provides that the evidence of an accomplice shall operate against a prisoner "only so far as it corroborates that of other witnesses, or strengthens impressions produced by circumstances"; while the latter enacts that confessions made before any other than the trying Authority "shall be deemed of weight according to the degree of corroboration they may receive before the Court." The deposition, therefore, of an accomplice, is valueless, unless it meets with something *which it can support*; while a prisoner's retracted admissions are equally valueless as evidence if *unsupported*.

The prisoner, against whom, perhaps, the greatest amount of evidence exists, is Chuba Mooljee (No. 2). Against him there is the testimony of the accomplice, corroborating his proved admission before the District Police Officer that he was present at the murder, and saw the blow struck, either by prisoner Bechur (No. 1) or Runchore (No. 4), and the deceased's body afterwards thrown by them into the well. His confession bears with

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unusual weight against him, as compared with the majority of retracted statements; for even before this Court he does not deny that he made it, but urges the incredible and disproved plea that he was suffering from fever at the time, and did not know what he said. He also admits before this Court, that Runga requested him to accompany her when she went to the village where her husband was; and his escape from custody, though he went no further than his own village, must be held to weigh in some degree against him. This evidence the Court considers sufficient for his conviction.

Against the prisoner No. 3 (Dhuneea), there is nearly the same amount of evidence; for the more qualified character of his admissions is fully compensated for by the proof which is on record, that he was in the company of deceased when the latter was last seen alive. Before the District Police Officer he admitted that he went with Runga to her husband, was present when she asked him to go with her to Anund, accompanied them thither, received information which made him suspect that some violence was about to be offered to deceased, and having afterwards, for no assignable reason, gone near the old dry well in which the body was found, heard some one crying out there, and concluded that deceased was being assaulted. Before the Court, he admits that he heard the cry; and the depositions Nos. 7 and 8 conclusively proved that he came with deceased and his wife to the house of these deponents on the evening before the day on which, according to Runga's deposition, the murder was perpetrated; that he left in their company next morning; and that deceased was not subsequently seen alive. The statement made by this prisoner, to the effect that he left deceased and Runga at Kesra's house, is also proved false, as it is shown that the three left together; and the proved falsity of this statement corroborates the evidence against him. His absence from his village

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when search was first made for him, and several days previously, deserves remark; and when to this is added the testimony of the deceased's wife Runga, the Court cannot entertain any doubt as to the prisoner's guilt.

Against the prisoner No. 1 (Bechur), the evidence is much weaker. Measured solely by the rule laid down in Regulation XII. of 1827, Section XXXV. Clause 2nd, it would be insufficient for his conviction. There is recorded against him the deposition of the pardoned accomplice Runga, but there is no other "witness" whose testimony this deposition can support, and no "circumstance" to produce impressions which this deposition can strengthen. It is, indeed, shown that Runga went to this prisoner's house before her husband joined her, but nothing further is on record against the prisoner. He is not proved to have even seen her there, or to have accompanied her, or (except on one occasion, about two months before, which he admits) to have met her either before or after. The Judges of the Sudder Foujdaree Adawlut have, however, in two reported cases (Bellasis, pages 156 and 240) ruled, that if an accomplice be proved to be a credible witness as against one prisoner, his evidence may be acted on as against other prisoners, in whose case it receives no corroboration; and accordingly convicted several prisoners in these two cases solely on the testimony of pardoned accomplices, uncorroborated as far as it affected these prisoners. The Acting Session Judge, therefore, considering the evidence of the accomplice Runga sufficiently corroborative of other circumstances in the case of the prisoners Nos. 2 and 3 to warrant their conviction, feels it his duty to record a conviction against this prisoner also; and does this with the less hesitation, because he is inclined to give full credit to Runga's testimony as to the actual murder, and noticed in her rather a backwardness than a forwardness to speak to the injury of this prisoner, with

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whom she maintains she had illicit intercourse but on a single occasion, while she admits a long course of criminal intimacy with the prisoners Nos. 2 and 3.

If the adulterous intercourse which existed between these three prisoners and the deceased's wife does not furnish a sufficient motive for the crime, the statement of the latter, that the prisoner No. 2 intended to sell her, may be considered deserving of credit, since the sale of women, falsely passed off as of a higher caste, is not uncommon in this province, and this prisoner is stated to have sold his own wife for Rs. 150.

For these reasons, the Court finds the prisoners Nos. 1, 2, and 3 guilty of murder; in having, on or about the night of February 27th, 1855, (corresponding with Falgoon Shood 11th, Sumvut 1911,) within the limits of Turnol, Purgunna Nuriad, in the Kaira Division of the Ahmedabad Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Aba Kuhana, by cutting his throat with a knife.

The case is one to which, though it bears evidence of much premeditation and atrocity, the Court forbears to adjudge the extreme penalty to either of the two first prisoners, since there is an absence of proof as to the party who actually murdered deceased, and it is possible that either of these prisoners may have been less deeply criminal than the other.

The prisoner No. 3 is a boy, certainly not more than fifteen or sixteen years old; and though the Court sees no ground for doubting any portion of the testimony of Runga which bears against him, there is still room to hope that he may have been urged to the part which he took in the crime rather by the example, or at the instigation, of the other prisoners, than from a precocity of depravity, which his appearance does not indicate. In his case, therefore, a lighter punishment will meet the requirements of the law; and the Acting Session Judge

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considers that the punishment awarded should be of a character which will not bring so young an offender in contact with the older and more hardened criminals to be met with in the Jail.

The following sentences are therefore passed, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut:—

That you, prisoner No. 1 (Bechur Juga), and you, prisoner No. 2 (Chuba Mooljee), be each transported beyond seas, for the term of your natural lives.

And that you, prisoner No. 3 (Dhuneea Bhowan), suffer twelve (12) months' imprisonment in solitary confinement, and receive twenty-five (25) stripes six weeks from this date. (Regulation XIV. of 1827, Section XXVI. Clause 4th). Prisoner No. 4 is acquitted, and discharged.

* * * * * *

The Assistant Magistrate has taken much pains in the preparation of this case; but however desirable it may be to prevent witnesses being tampered with, the Court is compelled to hold the reason which he has recorded for continuing the confinement of the prisoner No. 4 (against whom he considered that little or no evidence existed) insufficient to show either the justice or propriety of the measure.

Minute recorded by Mr. A. Remington.—The Session Judge has recorded that there was no other evidence against Bechur (prisoner No. 1) than the unsupported statement of Runga, the approver.

I am quite aware that in English Courts it has been held, that when there is one competent witness for the prosecution, although he be an accomplice, and uncorroborated, his evidence must be submitted for the consideration of the Jury; and the Session Judge quotes a case from Bellasis to show that such has been held to be law by this Court.

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In the present instance, however, the Regulations must be strictly adhered to, as it would be exceedingly dangerous to allow a conviction to take place on Runga's unsupported statement, after her admission that she had accused Runchore (prisoner No. 4) falsely, and without better excuse than she thought it would be pleasing to the Police.

I would, however, annul the conviction of all the prisoners, not considering the evidence sufficient to find them guilty.

Resolution of the Sudder Foujdaree Adawlut.—The Court do not think the deposition of the approver, and the retracted confessions, sufficiently supply the evidence to which the law has limited their worth, so that these convictions can be upheld. The prisoners are acquitted, and are to be discharged.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 5 of the Calendar of the Ahmednuggur Sessions Court for 1855. Committed by Dr. S. M. PELLY, Assistant Magistrate, on the 16th December 1854. Tried by the Honorable G. A. HOBART, Acting Assistant Session Judge, on the 6th and 7th February 1855. Reviewed by Mr. J. W. WOODCOCK, Session Judge, on the 16th March 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Feloniously Stealing; in having Embezzled, and Fraudulently Applied Property to his own use, in Breach of the Trust reposed in him.

Prisoner.—Rambhut bin Guneshbhut, Brahmin, aged 35.

Charge.—Feloniously stealing; in having embezzled, and fraudulently applied property to his own use, in breach of the trust reposed in him (Act XIII. of 1850, Clause 8th); in having, on or about the 19th or 20th of May 1854, (Mitee Wuishakh Wud 8th or 9th, Shuké 1776,) at or near Nassick, in Talooka Nassick, Zillah Ahmednuggur, embezzled, and fraudulently applied to

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his own use, in breach of the trust reposed in him, gold and silver ornaments, clothes, copper utensils, and papers, which he had received in trust from complainant Luximeebaee, the value of the same being Rs. 372-12-0.

Finding and Sentence by the Acting Assistant Session Judge.—The prisoner is charged with embezzling, and fraudulently applying property to his own use, in breach of the trust reposed in him. He pleads not guilty.

It appears from complainant's evidence, that one Yemoonabaee (deceased) had been, for about two years preceding her death, in May last, residing in the house of the prisoner at Nassick, and that when she was at the point of death she determined to make over all her effects to her daughter-in-law, the complainant, also a resident of Nassick. These consisted of personal ornaments of gold and silver, utensils of brass and copper, and articles of clothing. Their value is variously estimated by complainant at from Rs. 300 to Rs. 400,—she cannot speak to their value with any exactness. The deceased Yemoonabaee was opposed in her intention by the prisoner, who said that he could not allow possession to be given to complainant until after Yemoonabaee's death, but that he would then take care she should receive the effects. Of Yemoonabaee's attempt to deliver her effects into complainant's care; of the prisoner's opposition, and his promise to give possession after Yemoonabaee's decease, there is direct evidence, which will be noticed further on, to support the complainant's statement; and she now asserts, that after Yemoonabaee's death prisoner, contrary to his promise, refused to give her Yemoonabaee's property, denying that she died possessed of any, or that he undertook to deliver over any such property to complainant. The prisoner's defence is, not that he disputes complainant's right as heir of deceased, or that he delivered her effects to complainant; but that he denies Yemoonabaee to have ever intended

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giving complainant any property, that he promised to deliver possession on her decease, or that she died possessed of any property at all. The Assistant Session Judge therefore considers that this is properly made a subject of a criminal prosecution, as, if supported by evidence, a charge of gross fraud would be established, which should not be passed unnoticed by a Criminal Court.

It is necessary to prove for the prosecution that Yemoonabaee, at the time of her death, was possessed of effects, as deposed to by complainant; and that prisoner undertook to deliver them to her after Yemoonabaee's death. Non-delivery is admitted by the prisoner.

The Court observes, that as the cause of the prosecution arose about eight months ago, it is not surprising if the depositions of witnesses do not exactly tally in some minor particulars. Witnesses Rajaram Dixit (vide No. 3) and Mahadeo Bhiday (vide No. 4) depose to the same effect as complainant, where she says that Yemoonabaee bequeathed to her brass and copper vessels. The only difference between their statements is that one of them represents the complainant, and the other the deceased Yemoonabaee, as the person who pointed to the utensils, saying that they were thenceforth complainant's property. They both agree that the prisoner came in at that juncture, and forbade complainant to take those things into her own possession, saying that he would take care she got them after Yemoonabaee's decease. The next day, the complainant states, she asked Yemoonabaee to make over to her her ornaments of gold and silver, and that deceased told her to bring in some persons, in whose presence she might receive charge of them. She then, as she states, called in Dhondoo Rowjee and Luximon Lingayeet, and taking a box from under her head, opened it, and would have given the ornaments to complainant, but that Rambhut, the prisoner, again came in from his part of the house, which adjoined, and saying the deceased

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should not give these things to complainant while she lived, he took the box and its contents away with him. The witnesses agree with complainant, and each other, quite sufficiently, in the Acting Assistant Session Judge's opinion (considering the length of time which has now elapsed since the occurrence), to justify the Court in believing their evidence as to the main fact, that Yemoonabaee did bequeath her ornaments of gold and silver to complainant. The only part of the evidence which, in the Court's opinion, seems to favour the prisoner, is that which refers to complainant's asking prisoner for the effects after Yemoonabaee's death. Complainant states that she asked for them in the presence of certain witnesses, who deny that they were present on that occasion, or that they knew anything about it. On this the Assistant Magistrate, who committed the prisoner for trial, remarks,—"It is very possible that several people may, as she says, have been present at the time, and have taken no notice of what was said, or, perhaps, did not hear it: the want of evidence, therefore, on this point, can scarcely invalidate the testimony of those who depose that they were present when prisoner took charge of the property in trust for complainant." The Acting Assistant Session Judge is inclined to adopt this opinion; and considers that, with the evidence before it, the Court should have no reasonable doubt of the prisoner's guilt.

The exhibits in evidence are stated by complainant to be some of the effects bequeathed to her by the deceased Yemoonabaee; but the Court considers, that with the exception of one 'lotee,' and one iron pan, there is not sufficient evidence for identification: there is no sufficient proof, that is, that they were among the utensils bequeathed, or that they were Yemoonabaee's property at all.

The complainant estimates the value of Yemoonabaee's effects with much hesitation; at one time stating their

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value to be about Rs. 300, and at another about Rs. 400; but the Court cannot on that account disbelieve her evidence as to the main facts. This very hesitation, on points to which it cannot be expected she could speak with certainty, is rather an argument in favour of her veracity on others which came within her knowledge.

The prisoner is found guilty of feloniously stealing; in having embezzled, and fraudulently applied property to his own use, in breach of the trust reposed in him; in having, on or about the 19th or 20th of May 1854, (Mitee Wuishakh Wud 8th or 9th, Shuké 1776,) at or near Nassick, in Talooka Nassick, Zillah Ahmednuggur, embezzled, and fraudulently applied to his own use, in breach of the trust reposed in him, gold and silver ornaments, clothes, copper utensils, and papers, which he had received in trust for complainant Luximeebaee, the value of the same being Rs. 300, or thereabouts.

The Court sentences the prisoner, Rambhut bin Guneshbhut, under Act XIII. of 1850, Clause 9th, to suffer ordinary imprisonment with hard labour, for the term of ten (10) months, and to pay a fine of three hundred (300) rupees to the Sirkar; and in default, to suffer a further term of ordinary imprisonment with hard labour, for the term of fourteen (14) months.

If the fine awarded, or any portion of it, is paid by prisoner, it will, up to the amount of Rs. 200, be awarded, under Act IX. of 1838, in compensation for her loss, to the complainant. The remainder will be retained for the benefit of Government.

Reviewed by the Session Judge.—The Court reviews Case No. 5 of 1855, received from the Acting Assistant Session Judge, and called for from him upon a petition from a convict in the Criminal Jail, by name Rambhut bin Guneshbhut, convicted of breach of trust under Act XIII. of 1850, Clause 8th, by the Acting Assistant Session Judge, the Honorable G. A. Hobart,

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and sentenced to ten months imprisonment, with hard labour, and at the time of his release to pay a fine of Rs. 300; and in default to be further imprisoned fourteen months, with hard labour; of the fine, if paid, Rs. 200 to be given to complainant, and the balance, Rs. 100, to be carried to the account of Government.

I do not consider there is satisfactory evidence of the value of Yemoonabaee's effects. In her deposition she does not give the value of each article, but estimates the value of the whole at Rs. 400; and I do not see upon what evidence the Acting Assistant Session Judge has estimated their value at Rs. 300, and why, as he fined prisoner in the sum of Rs. 300, he did not order the whole fine, if paid, to be given to complainant. I therefore remit the fine imposed upon the prisoner by the Acting Assistant Session Judge.

The sentence of ten months' imprisonment, with hard labour, is confirmed.

Resolution of the Sudder Foujdaree Adawlut.—There is no proof to sustain the charge that the prisoner received in trust any property for complainant's use. The indictment does not distinctly state who entrusted the property to him; and in a charge of embezzlement under the Act, the nature and purpose of the trust must, as required by Section XIII., be clearly set forth.

The witnesses stated that the prisoner objected to Yemoonabaee divesting herself of the property in her lifetime; and beyond her alleged desire to give it away to Luximeebaee, there was nothing to show that the latter would have any title to succeed on her mother-in-law's death.

The prisoner, in defence, urged that Yemoonabaee was his mother-in-law also; that she had resided with him for the space of two years, and that he had some claim against her property,—the reason, no doubt, of his objecting to her giving it away.

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The Session Judge assigned no reasons for confirming the sentence ; but on the above grounds, the evidence appears insufficient to establish the charge against the prisoner, whose conviction is annulled, and he is to be discharged.

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DHARWAR.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 36 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. J. H. PELLY, Supernumerary First Assistant Magistrate, on the 12th March 1855. Tried by Mr. A. W. JONES, Session Judge, on the 14th, 16th, 27th, and 28th April 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder.

Prisoner.—Govinda bin Bheemapa, Ruder, aged 40.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st) ; in having, on the night of Thursday, the 22nd February 1855, (corresponding with Falgoon Shood 6th, Shuké 1776,) in the Heereaka temple, of the village of Selowdy, in the Nowlgoond Talooka of the Dharwar Division and Zillah, struck his wife Bheemee a blow on the head with a stick, from the effects of which she, the said Bheemee, died the following day, *i. e.* on the 23rd February.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and pleads not guilty.

It appears that late in the evening of Thursday, the 22nd February last, the prisoner, a ryot of the village of Selowdy, returned home from his fields, and then went out again for a short time ; and that when he came back the second time he told witness No. 1, his sister, that his house was ruined, and that his wife Bheemee was lying in the temple. Witness No. 1 immediately went to this

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temple, which is not more than 30 or 40 yards from their house, and found the deceased on the ground, breathing, but insensible. She called some neighbours whom she saw standing not far off, and one of them having brought a light, they examined her, and found she had a severe wound on the head, which was bleeding. The Police Patel came up just then, for the Chowree is not far from the temple, and he sent for the prisoner, who immediately allowed that it was he who had wounded his wife.

The Inquest Report, proved before the Court, shows that the deceased died of one severe blow on the top of the head, which had fractured her skull.

The prisoner, though he pleads not guilty to the charge of murder, has admitted before the Court the confession he made before the other Authorities, in which he describes the circumstances under which he struck the blow from which his wife has died, so that there is no doubt that the prisoner killed the deceased Bheemee.

The prisoner's defence, however, is, that he had before had suspicions of his wife's conduct with one Eera, and that on the night in question he found them standing together in this temple; and that being greatly excited thereby, and finding on the ground a heavy rice pounding stick, he snatched it up, and struck first at Eera and then at his wife, who was felled to the ground by the blow; that he went home and told his sister of this, and that he at once admitted it when questioned by the Patel, to whom also he gave up a 'dhotee,' which, he said, he had caught from Eera as he ran away.

The witness No. 1, sister of the prisoner, and mother of the deceased, declares that on going to her daughter she found her lying with her 'saree' under her, and her 'cholee' unbound before, and torn behind; and the Patel, and the two witnesses who first went to the temple, corroborate this.

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The witness No. 1 also declares, that a year ago she saw the deceased go with this man Eera amongst the standing 'jowaree' near a 'kula' or threshing-floor, where she was employed, and that she knows they then committed adultery.

And the Police Patel, and one of the neighbours of the prisoner, say they knew that the deceased was a woman of bad character; but neither of them knew of this particular intrigue.

It is also shown that the long heavy stick with which the blow was given belonged to the person who lived in the temple where the deceased was found lying, so that there is so far reason to believe that the act of the prisoner was unpremeditated.

The man Eera, however, denies that he ever had any intrigue whatever with the deceased, or that the dhotee (which the prisoner says he caught from him as he ran away from the temple) belongs to him; and beyond the prisoner's assertion, there is nothing to show that this Eera was near the temple at the time; for the Police Patel states that he could not find any proof of this dhotee having belonged to him, though he inquired of his (Eera's) neighbours, and of the village washerman. Eera says, moreover, that he only came home from his field at about 10 o'clock, and remained at home all that night, going out again next morning very early to his field, where he was found when sent for. The Police Patel says he (Eera) was not at home that night; but this was not proved. It is singular, considering how near the Chowree is to this temple, that the Shetsundees in it neither heard nor saw anything of what was passing.

As there is sufficient evidence, however, to show that the deceased was an abandoned woman, it is probable that the prisoner's story of his having caught her with Eera may be true; but he says he found them standing together, not that he saw them in the act of adultery, or

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in any such position as would leave no doubt that it had just been committed; and this being so, the Session Judge thinks the account given by him of the state of the deceased's clothes is unsatisfactory. The arrangement of the clothes of a woman of this caste is of the very simplest kind: the saree is put round the waist, the end folded in front, and tucked in there (it is not, as in some castes, passed under the legs, and tucked in behind), so that it could hardly take a moment to arrange; and if the deceased had time to get up, she must also have had time to put so simple an article of dress in order. The fact of the cholee being open in front, and torn behind, might lead to the supposition that she had been exposed to some violence, but has no necessary connection with any voluntary act of adultery. The impression on the mind of the Session Judge, from the state of the clothes of the deceased, is rather that they were so arranged by the prisoner, to support his own belief, than that they afford any real evidence of the deceased having just been engaged in an act of adultery; and the Session Judge does not think, therefore, there is sufficient proof to excuse the prisoner's act, or to divest it of so much criminality as would constitute murder; and therefore the prisoner is convicted of murder. Considering, however, that the conviction rests almost wholly on the confession of the prisoner, the Session Judge thinks he is justified in not passing sentence of death.

The prisoner is therefore convicted of murder; in having, on the night of Monday, the 22nd February 1855, (corresponding with 6th Falgoon Shood, Shuké 1776,) in the Heereaka temple, of the village of Selowdy, in the Nowlgoond Talooka of the Dharwar Division and Zillah, struck his wife Bheemee a blow on the head with a stick, from the effects of which she, the said Bheemee, died the following day, *i. e.* on the 23rd February.

And after considering the nature of the crime com-

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mitted, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed :—

That you, Govinda bin Bheemapa, be transported across the seas, for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. A. Remington.—I would uphold the conviction and sentence.

Minute recorded by Mr. W. H. Harrison.—In this case there is no reason to doubt that the deceased Bheemee met her death at the hands of the prisoner, her husband : the question is, how far the circumstances justify the conviction of murder.

The only evidence against the prisoner is his own admission. He did not deny from the first the fact of having killed his wife; but he says it was done on sudden provocation, finding her with Eera, under conditions which excluded other belief than that illicit connexion was occurring, or intended between them ; and on this justification he rests his exculpation.

Eera denies his share in the transaction, as it must be supposed he would ; and the investigation fails on the important point whether the dhotur, which the prisoner produced as having been snatched from Eera, really belonged to that person, or, if not, to whom.

Other circumstances tend to corroborate the truth of the prisoner's statement, which, as the only proof of his guilt, the Court is bound to receive as a whole, and not only so far as it tells against him. The instrument used ; the time and place ; and the condition of the deceased's dress, lead to the belief that, as he alleges, he found the parties in a position such as to lead to violent presumption of adulterous intercourse being intended, if they were not so engaged. Sudden and violent provocation is therefore to be inferred under these circumstances ;

and I should convict the prisoner of culpable homicide, and sentence him to a term of imprisonment.

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Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge, on the conviction and sentence.

Minute recorded by Mr. M. Larken.—That the deceased was in the temple with some person, for the purpose of adultery, there can be no doubt. It is shown, too, that she was of dissolute habits; and there is enough on record to indicate that her husband was aware that she was an habitual adulteress. Nevertheless, there is nothing to show that the prisoner went to the temple with the intention of committing murder; indeed, to that extent the Session Judge acquits him of premeditation. The facts fairly before the Court are, that the prisoner, suspecting his wife, went to the temple, where he found her under circumstances which impelled him to snatch up a heavy stick, which happened to be lying at his foot, and to strike her, once, in the dark, on the head, from which blow she died the next evening.

I think the prisoner should be convicted of culpable homicide.

Resolution of the Sudder Foujdaree Adawlut.—Conviction, culpable homicide; and sentence, eighteen (18) months' imprisonment, with hard labour.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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KAIRA.

[Case No. 61 of the Calendar of the Ahmedabad Sessions Court for 1855. Committed by Mr. W. F. A. SPRY, Deputy Magistrate of Kaira, on the 19th May 1855. Tried by Mr. H. NEWTON, Acting Session Judge, on the 25th May 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Acting Session Judge.]

Prisoner.—Kurshuneea Rupa, Bhoee, aged 30.

Perjury.

Charge.—Perjury; in having, on Thursday, April

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Perjury.

26th, 1855, (corresponding with Wuishakh Shood 10th, Sumvut 1911,) at Ahmedabad, before the Acting Session Judge of Ahmedabad, while being examined for the prosecution in the case of one Haruckla Rupa, then under trial on a charge of murder, wilfully made on solemn affirmation a false statement, to the effect that he was not present outside the house of Lukhee, the murdered woman, at the time when the murder was committed.

Finding and Sentence by the Acting Session Judge.—The prisoner is charged with perjury, and pleads guilty. The evidence of the case was read over to him, and he, after hearing it, confirmed his plea, but qualified it by adding that he made the false statement through confusion. The Court has therefore taken the depositions of the two witnesses who were present when the false statements were made, and adds its own testimony that the prisoner manifested the most obstinate determination to conceal the truth, and maintain his falsehood.

A reference to the case in which the perjury was committed shows that the brother of the prisoner was charged with murder, and the prisoner with instigating and aiding in the murder; that as it was of importance to convict the perpetrator of such an atrocious offence, and the evidence was defective, the prisoner was examined as a pardoned accomplice, when he deposed, and pertinaciously maintained, that he was not near the scene of the murder, and did not leave his own house at the time, though he now admits that he was at the door of the house within which it was perpetrated, and even endeavoured to dissuade his brother from committing it. His evidence was so material to the case, that if his wife and the other relations of the man then under trial had acted similarly, a conviction would probably have been impossible; and the intent and purpose with which the prisoner deposed are sufficiently manifest from the circumstance that when a close examination had elicited

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from him unawares a portion of the truth, he at once, on perceiving the tendency of what he had said to necessitate the admission of that which he was endeavouring to conceal, unblushingly declared that several statements which he had made but a few minutes previously were utterly untrue. Cases of perjury have lately occurred with embarrassing frequency in this Court; but the Acting Session Judge has never seen one which evidenced more deliberate wilfulness.

The prisoner admits that his deposition was given on solemn affirmation, and the witnesses who have been examined prove that it was duly read over to him before they authenticated it. His relationship to the man for whom he perjured himself may be pleaded as in some degree extenuatory of his guilt; but the Court cannot view his offence otherwise than as a very serious one of its kind. He cannot bring forward the pleas which may be usually urged for falsehood in a brother's favour, for he did not come before the Court as an unwilling witness, compelled by the law to state what he knew, but voluntarily closed with the offer of pardon made to him by the Court, on his promise to speak the truth; while at the moment of making this engagement he had determined to say nothing except that which was false. He was at liberty to stand his trial with his brother, but chose to escape, by entering into an agreement which he had no intention of fulfilling. This circumstance almost entirely deprives him of title to plead his relationship in mitigation of his crime.

The Court finds him guilty of perjury; in having, on Thursday, April 26th, 1855, (corresponding with Wuishakh Shood 10th, Sumvut 1911,) at Ahmedabad, before the Acting Session Judge of Ahmedabad, while being examined for the prosecution, in the case of one Haruckla Rupa, then under trial on a charge of murder, wilfully made on solemn affirmation a false statement, to

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the effect that he was not present outside the house of Lukhee, the murdered woman, at the time when the murder was committed; and passes the following sentence, which, in conformity with Regulation XXX. of 1827, Section IV., and Regulation III. of 1830, Section III., will not be enforced until it shall have been confirmed by the Sudder Foujdaree Adawlut:—

That you, prisoner Kurshuneea Rupa, be imprisoned for eighteen (18) months, with hard labour. (Regulation XIV. of 1827, Section XVI. Clause 2nd.)

Letter from the Acting Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward herewith, for the purpose of being submitted for confirmation of the Judges, Case No. 61 of the General Calendar for the year 1855, together with an extract from my proceedings of this day's date.

The Judges are respectfully referred to Case No. 5 of 1855, forwarded with my letter of the 27th ultimo, as that in which the perjury was committed.

Resolution of the Sudder Foujdaree Adawlut.—Conviction and sentence confirmed.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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[Cases No. 23 of the Criminal Return of the Magistrate of Kaira for January 1855. Tried by Rao Bahadoor ROWJEE KRISHNA, District Deputy Magistrate, on the 26th January 1855. Reviewed on Appeal by Mr. J. E. OLIPHANT, Acting First Assistant Magistrate, on the 25th February 1855. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner.—Bapoo Wurudbhy, Koonbee, aged 45.

Abuse of the Authority vested in him as Police Patel.

Charge.—Abuse of the authority vested in him as Police Patel (Regulation XIV. of 1827, Section I. Clause 5th, and Regulation XII. Section VIII. Clause 1st, of the same year); in that, one day in October 1854, (Ashad, Sumvut 1910,) in the village of Samurkhee, Talooka Neriad, he did confine in the stocks, for three hours, the persons Narayen Koobare, Khooshal Koobare, Runchore Rama, and Jeta Rama, shoemakers, on pretext of their having quarrelled with his niece's husband, Samul Béchur; the same being contrary to the Regulations of Government.

The prisoner pleads not guilty.

Finding and Sentence by the District Deputy Magistrate.—After the investigation of the case was closed, the prisoner was asked if he had anything further to say. He said no; but that he did not put the complainants into the stocks, and had witnesses to prove this, namely Moondas Bhugwan, Jemedar Peera Bapoo, Saloo Hureebhy, Patel Hureebhy Béchur, Kotwal Ujookala, Patel Laldas Metabhoy, Rowmeea Béchurjee Nuthoojee, Kotwal Natha Dajee, and that they should be called and questioned. But if they knew anything of the circumstance, it would have been easy for him to have mentioned them before the Neriad Police Amuldar; but he has now suborned witnesses, and wants to refute the

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charge. He is a person of an oppressive character, and therefore some through fear of him, whilst others through friendship for him, may have been prevailed on to give evidence, and they will do so to his wishes, and therefore no reliance can be placed on their statements; and as it would be useless to take the trouble, and lengthen the proceedings, the witnesses have not been called to have their evidence taken.

From the proceedings recorded in this case, it appears that Samul Béchur is the husband of the prisoner's niece, and that he went to the shoemaker Narayen Koobare, for a half rupee which he owed him, but he would not pay him. Samul therefore abused him, and gave him a slap, which he returned. Samul informed the Mookhee of it, who, on the authority vested in him, sent for Narayen Koobare, and his brother Khooshal Koobare, and his nephew Runchore Rama, and Jeta Rama, and placed them in the stocks for three hours. Afterwards, the witness No. 5 having stood security for them, they were released to go home for their meals. The prisoner denies having placed the shoemakers in the stocks, but admits that Samul Béchur having complained against them, he sent for them, and made them sit for an hour, and then let them go home for their meals, on some one standing security for their attendance, but does not say who the person was. From the evidence of the witnesses for the prosecution Nos. 2, 3, 4, 5, 6, 7, and 8 (whereof Nos. 2, 3, and 4 are complainants), it is proved they were placed in the stocks for three hours; and the prisoner himself says in his statement that they were called at about 8 A. M., and were allowed to go home for their meals, which is generally about 12 o'clock, so it appears that they remained in the stocks more than three hours. The carpenter Gurbur Béchur (witness No. 9), through fear of the Mookhee, denies on oath that he hammered a peg into the stocks,

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because, if he were to give a true account of the matter, the Mookhee might get his house burnt, or do him some bodily or other injury; and witnesses Nos. 12 and 13 have not, also for the same reason, spoken the truth, but have given their evidence in favour of the prisoner; and therefore no reliance whatever can be placed in their statements. The prisoner's habit of oppressing and injuring the people is well known to all; for witness No. 10, and one Gulabhoy Mohundas, the same night that the complainant (witness No. 4) was placed in the stocks, put a lighted ball of combustibles on his father's house; but it immediately being put out, no damage was done. The shoemaker and Samul were, with a Sepoy, brought to the Police Thana of Bhaluj, for assault and arson (and probably they being ill-treated there, and they being poor indigent shoemakers, they will not state through fear things as they occurred). They gave the Thana Havildar a 'razeenama' for the assault and arson, and got the Bhaluj shoemaker to stand security that they would not again complain. This matter was investigated in a separate case, in which these shoemakers, as well as the Bhaluj one, through fear of the Thanawala, would not state properly. But the deposition of the Thana Havildar has been taken in this case, in which he (the Havildar) acknowledges having taken a razeenama, and 'huzoor-jameen.' These poor people endured all the ill-treatment they were subjected to, and, through fear, say that they gave a razeenama. When this arson case was tried before the District Deputy Magistrate, the complainant said he was a poor man, and would not wish to have it tried, and would not give his evidence in a clear manner; and therefore the District Deputy Magistrate is of opinion that the Mookhee and his relative have been guilty of oppression.

During last year, the District Deputy Magistrate was

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encamped at Samurkhee, and the Thana Havildar then said that the Mookhee's character was bad. I spoke to the Mookhee, and warned him to be of good behaviour in future; but it is difficult for a person of bad character to reform. The District Deputy Magistrate, having taken the whole of the circumstances into consideration, is of opinion that the prisoner Bapoojee Wurudbhy is guilty of the charge preferred against him; and therefore tells him that he must pay a fine of fifty (50) Company's rupees, or be imprisoned for one hundred (100) days, without labour; and that he is dismissed the Service, agreeably to Regulation XII. of 1827, Section VIII. Clause 1st. Subject to the confirmation of the Zillah Magistrate.

The reason for dismissing the prisoner is, that he is not a Muthadar, and is a person of an overbearing and oppressive character, and therefore it is necessary that he should be dismissed, that his successor, and Police Patels of other villages, may take a warning, and behave in a proper manner.

When this decision has obtained the sanction of the Zillah Magistrate, it is to be communicated to the Police Amuldar.

Miscellaneous documents connected with this case (Nos. 14 to 28) are recorded.

The prisoner being on bail, and the witnesses being residents of a neighbouring village, no subsistence money has been paid to them.

The proceedings and papers in this case to be submitted to the Zillah Magistrate, for confirmation, with a separate memorandum.

Reviewed by the Acting First Assistant Magistrate on Appeal.—After a careful perusal of the papers and proceedings in this case, and due consideration given to the prisoner's pleas on appeal, the Acting First Assistant Magistrate sees no good reason to interfere with the con-

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viction and sentence. The Police Amuldar commenced the preliminary investigation of this case on 30th October, and took the prisoner's statement on the 17th January; between which dates the prisoner had ample time to prepare his defence, and name his witnesses. He named two before the Police Amuldar, who were duly examined by the Deputy Magistrate, and deposed to the effect of the prisoner's line of defence; notwithstanding which, at the close of proceedings, he stated that he had eight more witnesses who could state to the same effect, as they were present at the Chowree at the time; but he failed to explain satisfactorily why he had made no mention of them before the Police Amuldar. The Deputy Magistrate did not think it necessary to take the evidence of eight more witnesses. Under the circumstances, and as two witnesses had already deposed to what they were to be called to prove, the Acting First Assistant Magistrate considers the prisoner's plea in arrest of sentence inadmissible. Conviction and sentence confirmed accordingly.

* * * * * *

The usual steps will be taken to obtain the sanction of Government to the dismissal of the convict from the Office of Mookhee Patel.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner, the Mookhee of the village, appears to have exercised jurisdiction over an assault case, which it was competent to him by Regulation to do.

There is a great deal foreign to the subject imported into the Deputy Magistrate's finding, with which the Court do not concur.

The conviction and sentence are annulled, and the prisoner is to be discharged; or the fine, if paid, to be restored.

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TANNA.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Cases Nos. 16, 17, and 18 of the Criminal Return of the Magistrate of Tanna for April 1855. Tried by Mr. T. C. HOPE, Third Assistant Magistrate, on the 11th April 1855. Reviewed on appeal by Mr. G. B. SETON KARR, Magistrate, on the 30th April 1855. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Making a False Entry in his Accounts, with a Fraudulent Intention, he being a Village Accountant.

Prisoner in Cases Nos. 16, 17, *and* 18.—Atmaram Myhiput, Purbhoo, aged 39.

Charge in Case No. 16.—Making a false entry in his accounts, with a fraudulent intention, he being a Village Accountant (Regulation XVI. of 1827, Section XXVII. Clause 1st) ; in that, on February 23rd, 1855, (Falgoon Shood 7th, Shuké 1776,) in the house of one Chimnajee, in Saee, Talooka Panwell, he received from one Balya bin Halya the sum of Rs. 4, on account of the land revenue due to Government for the year 1854-55, by his father Halya bin Akojee, a landowner in the village of Kansorbhat, Suza Saee ; and in that, in the accounts of the said village of Kansorbhat, he did only credit the sum of Rs. 2 to the aforesaid Halya bin Akojee, fraudulently appropriating the balance, Rs. 2, to his own purposes.

The prisoner pleads not guilty.

Charge in Case No. 17.—Making a false entry in his accounts, with a fraudulent intention, he being a Village Accountant (Reg. XVI. of 1827, Sect. XXVII. Clause 1st) ; in that, on December 22nd, 1854, (Poush Shood 3rd, Shuké 1776,) in the house of one Chimnajee Bapoo, in Saee, Talooka Panwell, he received from one Rendya Bend Tandel, a landowner in the villages of Kansorbhat and Saee, the sum of Rs. 1, of which sum 12 annas was to be credited to his account at Kansorbhat for 'tugai,' and 4 annas for land revenue due to Government for the year 1854-55 ; and in that, in the accounts of the said

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village of Kansorbhat, he did only credit the item of 12 annas to the said Rendya Bend Tandel, and fraudulently appropriated the balance, 4 annas, to his own purposes.

The prisoner pleads not guilty.

Charge in Case No. 18.—Making a false entry in his accounts, with a fraudulent intention, he being a Village Accountant (Regulation XVI. of 1827, Section XXVII. Clause 1st); in that, on January 25th, 1855, (Magh Shood 8th, Shuké 1776,) in the house of one Chimnajee, in Saee, Talooka Panwell, he received from one Ambo bin Nag Tandel, a landowner in the village of Kansorbhat, Suza Saee, the sum of Rs. 3, on account of the land revenue due to Government for the year 1854-55, by the said Ambo Nag Tandel; and in that, in the accounts of the said village of Kansorbhat, he did only credit Rs. 2-8-0 to the aforesaid Ambo Nag Tandel, fraudulently appropriating the balance, 8 annas, to his own purposes.

The prisoner pleads not guilty.

Finding and Sentence by the Third Assistant Magistrate in Case No. 16.—The evidence of prosecutor, and witnesses Nos. 1 and 2, is positive, and there appears no cause for discrediting it. Prisoner attempted to throw doubt on prosecutor's statement, by showing that witness No. 1 had paid Rs. 2 of the Rs. 4. This the latter readily admitted, but said he gave the rupees into prosecutor's, and not the prisoner's hand, which witness No. 2 confirms. Witnesses are clear as to the occasion. Also prisoner's first witness knowing nothing of the matter, and the other not being called, the charge must be considered proved.

It is with regret that the Third Assistant Magistrate is obliged to record, both in this and two other cases (Nos. 17 and 18), a verdict against the prisoner, who has been seventeen years in Government employ. But independent of the charges being fully proved, the mode in which they were made was such as to create a strong

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antecedent probability of their truth. They were not made by petition, which would have given suspicion of their being caused by enmity; but came out naturally, in the course of comparison of the ryots' receipt-books with their verbal statements of what they had paid, at a period when 'koolroojwat' or examination of books had not been commenced in the district: when the Third Assistant Magistrate was employed in other work, and his departure from the neighbourhood was announced, late one evening, the order was suddenly given, and the whole of the villagers were assembled at an early hour the next day. There was no time for any one to get up a case or set of cases, neither was there time or opportunity to suborn witnesses, the evidence of each person being called for and taken on the spot, as his name was mentioned by the prosecutors. Concealment of cultivation to a considerable extent in prisoner's villages having been discovered and proved, greatly lessens the improbability of prisoner's guilt. Prisoner is convicted of making a false entry in his accounts, with a fraudulent intention. Considering the nature of the offence, and convictions recorded against prisoner in this, and Cases Nos. 17 and 18, and the punishment assigned, prisoner is sentenced to undergo three (3) weeks' ordinary imprisonment without labour; and moreover, to pay a fine of two rupees and twelve annas (Rs. 2-12-0), under Regulation XVI. of 1827, Section XXVII. Clause 1st, or to suffer one (1) week's imprisonment as above, in default of payment. The fine, if paid, to be awarded in compensation to Balya bin Halya (Rs. 2), Ambo bin Nag Tandel (8 annas), and Vetya bin Rendya (4 annas), under Regulation XII. of 1827, Section XIII. Clause 1st.

Finding by the Third Assistant Magistrate in Case No. 17.—When the difference between the entry and the sum which witness No. 1 said his father had paid was discovered, the latter was not present. On being

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immediately summoned, the old man, before he had time or opportunity to have communicated with any one, stated exactly to the same effect as his son; therefore, though now too ill to come himself, his deposition of that date may be depended on. It is proved by witness No. 2 that he paid Rs. 1, and subsequently that the prisoner evaded his son's demand that the money be credited. Prisoner's two witnesses say they know nothing of the matter; and the charge must therefore be considered proved. Prisoner is therefore convicted of making a false entry in his accounts, with a fraudulent intention. The sentence is combined with that in other cases, and recorded in Case No. 16.

Finding by the Third Assistant Magistrate in Case No. 18.—Prisoner's defence consists of an attempt to show that Ambo paid the 8 annas to witness No. 1, and Rs. 2-8-0 to him; and now, only remembering Rs. 3, says he gave the whole to the Tulatee. The evidence which he has called fails to prove this, and witnesses Nos. 5 and 6 deny having said that Ambo had done so on a certain occasion in Chimnajee's house. Whether they did or did not cannot with certainty be affirmed; but in any case an assertion, if thus brought home to them, could not prove that a third person had paid a sum when he denies it. Witnesses Nos. 1 and 2, moreover, directly state that Rs. 3 were paid; and another witness, who is not now able to come, stated the same at the time the affair was first found out. Prisoner is therefore convicted of making a false entry in his accounts, with a fraudulent intention. The sentence is combined with that in other cases, recorded in Case No. 16.

Reviewed by the Magistrate on Appeal.—It is clear, from what is proved in the three cases against this prisoner, that he has been in the habit of defrauding Government, and it is just as likely as not that this has been going on all through his course of service. At any rate,

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what has been now established called, I think, for a heavier punishment. Offences of this sort are very difficult of proof, and an example should be made of a delinquent whose guilt is placed beyond dispute. The petition is rejected.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

SURAT.

[Petition of Atmaram Gopal to the Sudder Foujdaree Adawlut, praying that the Order of the Magistrate of Surat, Mr. H. LIDDELL, directing him to file a Suit in the Civil Court for the removal of the lock placed on his door, may be set aside. Referred to the Magistrate for report, on the 9th May 1855.]

Precautionary Measures.

Return of the Magistrate to a Precept of the Sudder Foujdaree Adawlut.—In returning this Precept duly executed, the Magistrate of Surat has the honour to report that the petitioner, Atmaram Gopal, presented three petitions, on the 6th January, 17th February, and 8th March 1855, appealing against an order given him by the Kotwal of Surat, directing him to seek redress through the Civil Court, for obtaining possession of a house, which, while secured by a padlock by him, was fastened with one by Bykoover, the widow of his brother Shewlal.

When the case came before the Magistrate, it appeared that the matter had arisen out of a dispute between the parties named above, regarding the division of certain property; consequently he did not think it right to interfere in it, or to cancel their recognizance bonds, which had been passed by them to the Kotwal, for keeping the peace.

The whole of the papers connected with the petitioner's case are herewith submitted, and his original petition to the Sudder Court is also returned, as directed.

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Precautionary Measures.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate appearing to have properly exercised the precautionary measures contemplated by Section XVI. Regulation XII. of 1827, the Court find no cause for interference, and the petition is rejected.

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KHANDEISH.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 16 of the Calendar of the Khandeish Sessions Court for 1854. Committed by Mr. T. WEEDING, Assistant Magistrate. Tried by Mr. A. ST. JOHN RICHARDSON, Session Judge, on the 9th and 21st June 1854. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Renko wulud Goona.]

Robbery by Day, without Force.

Prisoners.—No. 1, Renko wulud Goona, Kolee, aged 25.

2, Luximon wulud Moteeram, Telee, aged 40.

[The proceedings in this case are printed at pages 245 to 247, Vol. II. of these Reported Cases.]

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to request you will lay before the Judges of the Sudder Foujdaree Adawlut, with a view to obtaining the favourable opinion of the Right Honorable the Governor in Council, the case of one Luximon wulud Moteeram, now a prisoner in the Jail at Dhoolia.

This man was convicted of robbery by day, without force, on 21st June last, and sentenced to two years' imprisonment, with hard labour. On the 9th idem he was admitted into hospital, and has never been fit for work since. He suffers, from a painful, incurable, but, I believe not contagious, disease, known as "Lupus exedens," by which the cartilaginous substance of the nose and palate, mouth, and eventually the bones, are consumed;

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and to support his general health tonics, and the most generous diet are, as may be seen by Dr. Faithfull's report, furnished, but he still appears to waste week by week. There appears, from that gentleman's opinion, no probability of this convict being ever sufficiently recovered to work either in or out of Jail.

I am aware that, on principles of abstract justice, the state of a prisoner's health cannot plead for a remission of the penalty of a crime which it did not incapacitate him from committing, and that the precedent of granting pardon without extenuating circumstances must be received with much caution ; yet, in the case of this unfortunate man, I beg to forward the suggestion of the Civil Surgeon that the Judges will be pleased, under provisions of Section XXXI. Regulation XIII. of 1827, to forward this correspondence to the Right Honorable the Governor in Council, with a recommendation that, as an act of grace, the punishment awarded to Luximon wulud Moteeram be, in consideration of his bodily infirmities, remitted from 20th instant.

The case of this convict was called for on 26th July 1854 by the Sudder Foujdaree Adawlut, on a petition from his accomplice Renko wulud Goona, and the petition rejected under date 23rd August 1854. (Vide Precept No. 611.)

Letter from the Civil Surgeon to the Session Judge.—In acknowledgement of your letter No. 427 of 1855, I have the honour to refer you to paragraph 5 of my letter No. 51 of 1855, regarding the disease and general health of prisoner Luximon wulud Moteeram, from which you will perceive that I view " confinement in Jail as prejudicial to both"; consequently I do not think the prisoner's transfer to another Jail, as you suggest, would prove of benefit or utility.

At the time that the crime was committed, the disease, which had previously existed, had been gradually

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relieved; but since the prisoner's incarceration, it has broken out afresh, with increased virulence. The prisoner was committed to Jail on the 7th June 1854. On the 9th of the same month he was, by my predecessor, admitted on sick report for an "ulcer" on the mouth; has continued in hospital up to the present time; and there is no probability of his disease and general health becoming sufficiently relieved to admit of his discharge to work in or out of the Jail as a convict.

Added to this, I am obliged to keep him on the most nourishing diet,—meat, ghee, sugar, with dhal, wheaten bread, and vegetables,—not only to retard the progress of the local disease, and preserve his general health, such as it is, but also to guard against the accession of scurvy, to which, with his constitution, imprisonment evidently predisposes.

Notwithstanding all these precautions, and the protracted exhibition of tonics,—as iron and cod liver oil,—the prisoner has steadily lost substance, though the local affection has been partially relieved, as on the 2nd of February last he weighed 7 stone 2lb., but is now reduced to 6 stone 3lb.

The knowledge of these facts, added to the apprehension of progressive ailment, and general decay, or the probable invasion of scorbutic symptoms, has induced me to bring this prisoner's case to your notice, for the recommendation conveyed in my letter No. 51, of the 28th current.

I may add, in conclusion, that I entirely concur in the expression of your sentiments with reference to the principle concerned, as set forth in paragraph 3 of your letter No. 417, of the 28th instant; but it appears to me that the circumstances in operation with the prisoner are irremediable, and wholly subvert the intent of the punishment awarded; and that, instead of undergoing a trial, and labour in Jail, the culprit is, comparatively, living in

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comfort and ease, with no prospect of a change of these conditions during his period of award, viz. two years' imprisonment, of which upwards of ten months have now passed over.

Resolution of the Sudder Foujdaree Adawlut.—The Court find, from the reports of the Session Judge and of the Civil Surgeon, that while on the one hand the convict's disease is aggravated by the confinement of the Jail, on the other, he has never undergone an hour's hard labour, having been in hospital even before sentence, and ever since; and consider, with reference to the crime of which he has been convicted, and the expiration of nearly half his imprisonment, that the pardon of Government may be properly extended to him.

Letter from the First Assistant Registrar of the Sudder Foujdaree Adawlut to the Secretary to Government.—I am directed by the Judges of the Sudder Foujdaree Adawlut, in forwarding, for the purpose of being laid before the Right Honorable the Governor in Council, copy of a letter from the Session Judge of Khandeish, dated the 1st instant, No. 445, in the case of Luximon wulud Moteeram, now a prisoner in the Dhoolia Jail, and its accompanying copy of a communication from the Civil Surgeon, to submit an extract from the Court's proceedings of the 6th June 1855, and to offer their opinion that the pardon of Government may be properly extended to the prisoner.

Resolution of the Government.—That under the circumstances stated in this correspondence, the pardon of Government be extended to Luximon wulud Moteeram, now a prisoner in the Dhoolia Jail.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SHOLAPORE.

[Case No. 101 of the Calendar of the Sholapore Sessions Court for 1854. Committed by Mr. A. BOSANQUET, Acting Second Assistant Magistrate, on the 27th October 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 14th November 1854. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner.—Gunga kom Mhadoo, Dhungur, aged 44. Perjury.

Charge.—Perjury (Regulation XIV. of 1827, Section XVI. Clause 1st); in having, on Wednesday, the 26th May 1841, (corresponding with Boodwar, Jésht Shood 6th, Shuké 1763,) at Roplay, in the Kuroomla Talooka of the Sholapore Zillah, before the Acting Police Amuldar of that Péta, whilst giving evidence in the case of Narayen wulud Bhanjee and others, charged with murder, wilfully made a false statement on solemn affirmation, to the effect that about five months before, Narayen Kamblé, Babajee Patel, and Babajee Mudné entered her house, whilst she was sleeping outside, and murdered her husband, and that, hearing the noise caused thereby, she went inside, and saw the corpse of her husband Mhadoo lying there.

Finding and Sentence by the Session Judge.—The prisoner is charged with perjury, and pleads guilty.

She is convicted on her own confession, confirmed after hearing the evidence in the case read over to her, of perjury; in having, on Wednesday, the 26th May 1841, (corresponding with Boodwar, Jésht Shood 6th, Shuké 1763,) at Roplay, in the Kuroomla Talooka of the Sholapore Zillah, before the Acting Police Amuldar of that Péta, whilst giving evidence in the case of Narayen wulud Bhanjee and others, charged with murder, wilfully made a false statement on solemn affirmation, to the

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effect that about five months before, Narayen Kamblé, Babajee Patel, and Babajee Mudné entered her house whilst she was sleeping outside, and murdered her husband, and that, hearing the noise caused thereby, she went inside, and saw the corpse of her husband Mhadoo lying there.

And after maturely considering the nature of the offence committed, the serious nature of the charge (murder) made by the prisoner, and which she now admits to be false, and the punishment provided for the same by Clause 2nd, Section XVI. Regulation XIV. of 1827, the following sentence is passed :—

That you, Gunga kom Mhadoo, be imprisoned with hard labour, for two (2) years.

Minute recorded by Mr. A. Remington.—The prisoner was convicted of perjury ; in that, on the 26th May 1841, and again on 10th October 1854, having deposed that her husband Madhoo had been murdered by Narayen Babajee and others, she withdrew that accusation on the 16th October 1854, and declared her former statement to be false. Being now tried for the perjury, she has pleaded guilty, and been sentenced to two years' imprisonment, which certainly would not be a day longer than she deserved, supposing it to be true that she did falsely accuse Narayen of the murder.

It seems to me that this particularly was a case in which it was essential, to the conviction of perjury, that the truth of one of the two contradictory statements should have been satisfactorily established, and the false statement averred, and set forth in the indictment. When, however, the accused Narayen was examined on the charge of murder in October last, the daughter of deceased Mhadoo deposed against him in direct terms ; and in his own deposition in the present case of perjury, he admitted that about the time of the murder he absented himself from his own village, which was where Mhadoo

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used to reside, and, as may be presumed, he has been a fugitive ever since. He must clearly have been suspected of the murder at the time, and his dismissal from the charge, under the circumstances recorded, is not at all satisfactory.

I would therefore, through the Session Judge, direct the Magistrate to have the inquiry, so abruptly broken off by his Assistant, resumed, and the result of it fully reported, together with an account rendered of the proceedings held at the time of Mhadoo's death, to enable the Court to dispose of the petition, which in the mean time may lie over.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Magistrate is to be directed, through the Session Judge, to have the inquiry, so abruptly broken off by his Assistant, resumed, and the result of it fully reported, together with an account rendered of the proceedings held at the time of Mhadoo's death, to enable the Court to dispose of the petition, which in the mean time may lie over.

Return of the Deputy Magistrate to the Precept of the Sudder Foujdaree Adawlut.—It is hereby certified to the Sudder Foujdaree Adawlut, that the papers in the case of Gunga kom Mhadoo, together with an extract from the Court's proceedings of the 14th February last, have been received, and the exigence of the latter complied with by forwarding herewith a letter from the First Assistant Magistrate in Charge, No. 156, of the 23rd ultimo, with its accompaniment. The papers are also returned, as directed.

Letter from the First Assistant Magistrate to the Session Judge.—With reference to your letter No. 227, dated 26th February last, I have the honour to forward, for submission to the Sudder Foujdaree Adawlut, the accompanying copy of the Acting Second Assistant Magistrate's report, furnishing the information required

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by the Judges in the extract of their proceedings dated 14th idem, in the case of Gunga kom Mhadoo.

Explanation of the Acting Second Assistant Magistrate.—On the 20th May 1841, Muktay, the daughter of Mahdoo, deposed before the Police Amuldar of Roplay that, about six months before, Narayen Kamblé, Babajee Mudné, Dhowloo, and Gunga (her mother) had murdered her father, Mhadoo ; that she had not before said anything about it, because she was intimidated by her mother's threats from doing so ; and that the body of her father had been conveyed away by the prisoners, but where to she did not know. In obedience to the Magistrate's order, every effort was made to discover the body, but without success. The Magistrate ordered that the prisoners should be taken back to Maheesgaon, led through the adjoining fields, and strictly watched as to which direction they turned their eyes, in order that the body might be discovered ; but this effort was as fruitless as the others. Before all the suspected parties could be apprehended, Narayen Kamblé and Babajee Mudné decamped. Dhowloo, Babajee Patel, and Gunga kom Mahadoo, were tried before the Second Assistant Magistrate, Mr. Suart, who dismissed the case, recording his opinion that there was nothing to prove that the man (Mhadoo) was even dead. In September last, Narayen was discovered by a Sepoy in the village of Nalgaon, in the Nizam's Territories, and taken by him to the Roplay Police Amuldar.

Gunga, the wife of Mahdoo, in her first deposition before the Roplay Police Amuldar in 1841, stated that Narayen Kamblé and Babajee Patel had about a year before her husband's death plotted to kill him ; that she had endeavoured to dissuade them from doing so ; but that they, not listening to her, came one night with Babajee Mudné, and murdered her husband. In her second deposition, before the Roplay Police Amuldar in

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1854, she stated that Babajee Patel and Narayen were on terms of criminal intimacy with her, and finding her husband, Mahdoo, in the way, resolved to kill him; that she tried to dissuade them from doing so; and that one night Babajee Patel, Narayen Kamblé, and Babajee Mudné, murdered her husband. In October last, when the prisoner Narayen was tried for murder before the Acting Second Assistant Magistrate, she stated that both her former depositions were false. She was thereupon committed to take her trial before the Sessions Court on the charge of perjury; in having made, before the Roplay Police Amuldar, the two false statements above mentioned; and was convicted of perjury, which is decisive evidence that the Sessions Court were of opinion that her two depositions before the Roplay Police Amuldar were false, for otherwise she could not have been convicted.

The only evidence against the prisoner Narayen was that of Mahdoo's daughter, Muktay, and the fact that shortly after the alleged murder he decamped. On the other hand, there was the fact that the body of Mahdoo had never been discovered; and according to English law, a great amount of evidence of the most direct and positive character is required to convict a prisoner of murder, if the body of the alleged murdered person has not been discovered. Under these circumstances, the Assistant Magistrate found himself compelled to dismiss the case against the prisoner. He has again looked over the case, but has not found any additional evidence against the prisoner.

Further Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Magistrate is to be requested to report, through the Session Judge, how the prisoner was allowed to be a witness in an inquiry into a case of murder in which she was at first considered an accomplice, and examined and discharged.

Return of the Session Judge to the Precept of the

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Sudder Foujdaree Adawlut.—Execution of this Precept is hereby certified to the Sudder Foujdaree Adawlut, by transmitting herewith the letter of the First Assistant Magistrate, No. 233, dated 1st June 1855, together with the report of the Acting Second Assistant Magistrate, therein alluded to.

Letter from the First Assistant Magistrate to the Session Judge.—With reference to your letter No. 545, of the 25th ultimo, forwarding an extract from the proceedings of the Sudder Foujdaree Adawlut, dated the 16th idem, in the case of Gunga kom Mahdoo, I have the honour to annex copy of a report from the Acting Second Assistant Magistrate, Mr. Bosanquet, furnishing the information required by the Judges of the Sudder Foujdaree Adawlut.

Report of the Acting Second Assistant Magistrate.—The Acting Second Assistant Magistrate has the honour to report, that though he has heard it said that an accomplice is an incompetent witness, yet he can find nothing to support this opinion in any of the Acts or Regulations of Government. According to Act No. II. of 1855, children and insane people are the *only* persons not qualified to testify. And Archbold, in his list of incompetent witnesses, not only does not mention accomplices, but states in page 225 that an accomplice was always a competent witness.

It is not proved that Gunga kom Mahdoo was an accomplice in the crime about which she was called upon to give evidence, but rather the contrary; for the fact of her having been tried as an accomplice in the murder, and discharged for entire want of proof thereof, must, the Assistant Magistrate imagines, be considered as evidence in her favour.

Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion that the prisoner, who was guilty, according to her own statement, of the concealment of

murder, before and after the fact, and had been examined as an accused person, on a charge of murder, ought to have been pardoned before her evidence was taken, and that it was not competent to cite her as a witness for the prosecution; for until she was pardoned, she was exempted by law from being called upon to state any matter criminatory of herself. Her conviction and sentence for perjury are annulled, and she is to be discharged.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

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SURAT.

[Case of Gopal Nathoo, required to furnish Security for Good Behaviour. Referred to the Sudder Foujdaree Adawlut by the Magistrate of Surat.]

Security for Good Conduct.

Letter from the Magistrate to the First Assistant Registrar of the Sudder Foujdaree Adawlut.—Agreeably to the provisions of Clause 1st, Section XXVII. Regulation XII. of 1827, I have the honour to report, for the information of the Judges of the Sudder Foujdaree Adawlut, that the prisoner Gopal Nathoo, being a suspicious character, and having been punished on a former occasion, was directed by me, on the 14th October 1854, when in charge of the duties of the Superintendent of Police, to furnish a security for good conduct in the sum of Rs. 100, commutable to two years' imprisonment; but as he failed to act up to this order, on the 17th October 1854 he was sent for confinement to the Jail.

The case of this individual has, it will be seen by a reference to the correspondence, been lately before the Court, and as the Judges appear to have returned it without any remarks, I conclude they have confirmed the decision passed by me, and would therefore solicit their sanction for his being confined for the period above specified.

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Security for Good Conduct.

As the English summary of the case has been returned, it is herewith submitted.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be informed that the reference is premature, as the first year has not elapsed.

The Session Judge is to be requested to explain how the sentence is entered in the Register as "one year," and the Magistrate has reported it to be two years.

Return of the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—The instructions communicated in the extract of proceedings which accompanied this Precept will be duly attended to, and it is accordingly returned duly executed.

Return of the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—In reply to this Precept, copy of the warrant under which the prisoner is in confinement is herewith forwarded. It will thence be seen the entry in the return in question was correct, the prisoner having been sentenced to only one year's imprisonment.

Resolution of the Sudder Foujdaree Adawlut in respect to both these Returns.—Recorded.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

DHARWAR.

[Case No. 51 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. J. H. PELLY, Supernumerary First Assistant Magistrate, on the 30th March 1855. Tried by Mr. A. W. JONES, Session Judge, on the 9th and 14th May 1855. Proceedings submitted for the final decision of the Sudder Foujdaree Adawlut by the Session Judge, under the provisions of Section IV. Regulation XXX. A. D. 1827.]

Perjury.

Prisoner.—Bheemee, daughter of Kenchapa, Bedur, aged 25.

Charge.—Perjury (Regulation XIV. A. D. 1827,

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Section XVI. Clause 1st); in having, on the 14th February 1855, (corresponding with Magh Wud 12th, Shuké 1776,) deposed on solemn affirmation, before the Session Judge, in a case in which one Ramungowra was charged with gang robbery with force, by night, that she was not the mistress of Ramungowra, and that he had never left a bundle with an ornament in it in her house, and had never told her that he had done so; this deposition being false, and she, the prisoner, knowing it to be so.

Finding and Sentence by the Session Judge.—The prisoner is charged with perjury, and pleads not guilty.

It appears that one Ramungowra, the Police Patel of Hodgoor, was charged with having committed a gang robbery with force, in company with others not apprehended, and that on information received, the house of the prisoner was searched for some of the property lost in the robbery, and that in the course of this search the Joint Police Officer found a bundle of white cloth, containing his child's two silver armlets, hidden in an earthen vessel, which he deposes the person robbed identified as his own. The prisoner, on being examined the day after this, deposed on solemn affirmation before the Police Amuldar, that these things had been placed with her by the Police Patel Ramungowra, and on her evidence being taken by the First Assistant Magistrate, Mr. Stewart, who committed the case against Ramungowra for trial, the prisoner confirmed this deposition, with the exception of saying that she did not actually see the white bundle in Ramungowra's hands; and she accounted for having said this before the Police Amuldar by declaring she was then confused. But it has been proved before the Court by the respectable evidence of the Police Amuldar himself, who took her deposition under the eye of the Police Superintendent, and the Joint Police Officer who wrote it down, that she did not appear frightened, but, on the contrary, was quite composed during the time

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she gave it ; so that the Session Judge has no doubt that the statement was deliberately made.

When, however, the prisoner came before the Sessions Court, she denied that the Police Patel Ramungowra had ever kept her ; and declared that for the last five years he had never come near her, and that he had never put any bundle in her house ; and considering the very evident object she would have in suppressing all such evidence as would affect the prisoner, the Session Judge has no doubt that this was wilfully done, with the object of perverting the course of justice, by preventing the conviction of the Patel Ramungowra ; and the prisoner is therefore convicted of perjury ; in having, on the 14th February 1855, (corresponding with Magh Wud 12th, Shuké 1776,) deposed on solemn affirmation, before the Session Judge, in a case in which one Ramungowra was charged with gang robbery with force, by night, that she was not the mistress of Ramungowra, and that he had never left a bundle with an ornament in it in her house, and had never told her that he had done so ; this deposition being false, and she, the prisoner, knowing it to be so.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XVI. Clause 2nd, the following sentence is passed :—

That you, Bheemee, be imprisoned and kept to hard labour for four (4) months. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. M. Larken.—The prisoner is charged with having falsely deposed before the Session Judge that she was not the Patel's mistress ; that he had never left a bundle in her house, nor had told her that he had. The proof against her is that she had previously deposed before the Police the reverse of the above ; viz. that she was the Patel's mistress, &c.

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I do not think the conviction can be confirmed, for there is nothing in evidence to show that she was the Patel's mistress, &c.

Resolution of the Sudder Foujdaree Adawlut.—The Court consider that it was not sufficient proof of the alleged perjury to produce an opposite statement of the accused party, also given on oath. Independent evidence is wanting of the falsehood of the statement, which is said to constitute the offenee.

The conviction and sentence are therefore annulled, and the prisoner is to be discharged.

Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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SHOLAPORE.

[Case No. 4 of the Criminal Return of the Magistrate of Sholapore for March 1855. Tried by Mr. A. BOSANQUET, Acting Second Assistant Magistrate, on the 2nd March 1855. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Attempting to Commit a Robbery by Night; and Instigating and Aiding in the Crime.

Prisoners.—No. 1, Dowluta wulud Bhewa, Mang, aged 25.
2, Peera wulud Keroo, Mang, aged 30.
3, Babajee wulud Chutoo, Mussulman, aged 51.

Charge.—Against prisoners Nos. 1 and 2, attempting to commit a robbery by night (Section XXXVII. Clause 4th, and Section I. Clause 2nd Regulation XIV. of 1827); in having made preparation to rob the house of one Jeewa Metha, at Kurmula, on the night of the 10th January 1855; and against prisoner No. 3, instigating and aiding in the above detailed offence. (Section I. Clause 5th, Regulation XIV. of 1827.)

The prisoners plead not guilty.

Finding and Sentence by the Acting Second Assistant

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Magistrate.—On the 10th January last, witnesses Nos. 3, 4, and 5 went to the house door of prisoner No. 3, and heard him talking with the other two prisoners about robbing a house that night; thereupon they called out to prisoner No. 1, and asked him who were in his house, to which he replied that no one was; but immediately after this witnesses Nos. 2 and 5 saw the two first prisoners running away. The three prisoners were then apprehended, and in the scuffle the two first were severely bruised (these bruises are now apparent). This is the evidence for the prosecution. In their defence, the two first prisoners allow that they were at the house of prisoner No. 3 on the night in question, and were apprehended by the Sepoys; but state that, so far from planning a robbery, they were asleep at the time. Prisoner No. 3 states that he was not aware that the other two prisoners were in his yard. All the witnesses for the prosecution are Watchmen or Policemen,—a suspicious circumstance; and if their evidence is true, why did they not allow the prisoners to engage in the perpetration of the robbery, and then apprehend them? Such would be the usual course. It therefore does not appear safe to convict the prisoners of the crimes with which they are charged, and the cases against them are therefore dismissed.

So much suspicion, however, rests on the prisoners, and especially on prisoner No. 3, that it appears expedient to require them to find security for their future good behaviour.

Prisoners No. 1 (Dowluta) and No. 2 (Peera) are each required to find two securities for their good behaviour for two years, in the sum of fifty (50) rupees each; in default to suffer each three (3) months' imprisonment, without labour.

Prisoner No. 3 is required to find two securities of two hundred (200) rupees each, for his good behaviour for

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the next three (3) years; or in default to suffer imprisonment without labour, for six (6) months. (Section XXV. Regulation XII. of 1827.) The above is subject to the confirmation of the Magistrate. (Section III. Regulation IV. of 1830.)

Extract Paragraph 1 *of a Letter from the First Assistant Registrar of the Sudder Foujdaree Adawlut to the First Assistant Magistrate.*—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of your Criminal Return for March last, and to request you will have the goodness to review Case No. 4, and report how the prisoners Nos. 1 and 2 came to be wounded in an attempt to commit an offence of which they were acquitted.

Letter from the First Assistant Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In reply to your letter No. 1234, of 12th instant, I have the honour to state, for the information of the Judges of the Sudder Foujdaree Adawlut, as follows :—

From the proceedings of the Second Assistant Magistrate in Case No. 4 it appears, that on the night of 10th January last the Police went to the house of prisoner No. 3, and there heard him and prisoners Nos. 1 and 2 planning a robbery, to be committed that night. On the Police showing themselves, prisoners Nos. 1 and 2 ran out of the house, and a scuffle took place, in which prisoners Nos. 1 and 2 were severely wounded with a sword by a Rukwaldar.

The three prisoners were then apprehended.

The Second Assistant Magistrate acquitted the prisoners Nos. 1, 2, and 3, because all the witnesses for the prosecution were Watchmen or Policemen,—a suspicious circumstance; and that if their evidence were true, they ought to have allowed the prisoners to engage in the actual perpetration of the robbery, and then to have apprehended them. As, however, there was much suspicion

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against the prisoners, they were required to find security, prisoners Nos. 1 and 2 in the sum of Rs. 50 each, or in default to suffer each three months' imprisonment without labour, and prisoner No. 3 to find two securities of Rs. 200 each, or in default to suffer six months' imprisonment, without labour.

The First Assistant Magistrate in Charge concurs in the acquittal of the prisoners.

Resolution of the Sudder Foujdaree Adawlut.—The only inference to be deduced from the remarks of the Assistant Magistrate is, that he disbelieved the evidence for the prosecution. It was therefore improper for him to call upon the accused to find security.

The order for security is to be annulled.

The Court direct the attention of the Magistrate to the conduct of the Police in this case. Two of the accused persons were so severely treated, that for nearly two months they were unable to appear to take their trial, and the Police were the more inexcusable because, on the one hand, if their story be true, they were not even justified in doing more than watching the suspected parties; while, if the Assistant Magistrate's opinion of the evidence be adopted, they were guilty of a wanton outrage upon unoffending people.

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Present, { METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

BELGAUM.

[Case No. 70 of the Criminal Return of the Dharwar Sessions Court for 1855. Committed by Mr. C. F. H. SHAW, Second Assistant Magistrate of Belgaum, on the 12th May 1855. Tried by Mr. A. W. JONES, Session Judge, on the 19th May 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Attempt at Murder.

Prisoner.—Satya bin Balupa, Lingayeet, aged 20.

Charge.—Attempt at murder (Regulation XIV. A. D.

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1827, Section XXVI. Clause 1st, and Section I. Clause 2nd) ; in having, on Wednesday, the 29th November 1854, (corresponding with Margsheersh Shood 10th, Shuké 1776,) in the village of Chinchnee, in the Chickoree Talooka, in the Belgaum Division of the Dharwar Zillah, wilfully and maliciously attempted to kill one Kaloo bin Balupa, by striking him with a sword, or some equally dangerous weapon, thereby inflicting severe wounds on the hip, thigh, and hands of the aforesaid Kaloo.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with attempt at murder, and pleads guilty.

It appears that the prisoner has lived until lately with his uncle and elder brother, and that he separated from them on account of their not having managed to get him married ; and that in revenge for this, and, according to his own statement, in the hope also of securing to himself the succession to the family ' wutun,' he determined to kill his brother, and therefore went and waylaid him as he was returning from his field in Chinchnee, in the afternoon of Wednesday, the 29th November last. He attacked him, and wounded him several times with a sword, but was prevented from actually killing him by the intervention of two persons who happened not to be far off.

The wounds thus inflicted are described in the ' punchayetnama' as being so severe that they would require four months to cure; and on looking at them, the Session Judge finds that one of them has left a very large scar across the hip and groin, and will probably make Kaloo lame for life.

The prisoner has pleaded guilty before the Court, and has admitted the statement he had previously made before the other Authorities, in which he acknowledges having made this murderous attack on his brother ; and the Session Judge, considering the provocation he says he has received from his brother as quite insufficient to

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justify him, convicts him of attempt to commit murder; in having, on Wednesday, the 29th November 1854, (corresponding with Margsheersh Shood 10th, Shuké 1776,) in the village of Chinchnee, in the Chickoree Talooka, in the Belgaum Division of the Dharwar Zillah, wilfully and maliciously attempted to kill one Kaloo bin Balupa, by striking him with a sword, or some equally dangerous weapon, thereby inflicting severe wounds on the hip, thigh, and hands of the aforesaid Kaloo.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. A. D. 1827, Section XXVI. Clause 4th, and Section I. Clause 2nd, the following sentence is passed:—

That you, Satya, be transported across seas, for the term of your natural life.

Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

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BROACH.

Present, ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 4 of the Criminal Return of the Magistrate of Broach for February 1855. Tried by Mr. L. R. ASHBURNER, First Assistant Magistrate, on the 25th February 1855. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Serious Assault.

Prisoner.—Mota Goolab, Rajpoot, aged 25.

Charge.—Serious assault (Regulation XIV. of 1827, Section XXIX. Clause 1st); in having, February 14th, 1855, (corresponding with Magh Wúd 12th, Sumvut 1911,) in the village of Kawa, in the Jumbooseer Purgunna, broken the left arm of Buga Jeysung, by a blow with a stick.

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Serious Assault.

Finding and Sentence by the First Assistant Magistrate, confirmed by the Magistrate.—It is admitted by the prisoner that there was a dispute between him and Buga about some cow-dung, and this fact is also unwillingly deposed to by witness No. 3. Both this witness and No. 2 gave their evidence with great reluctance, and repeated prevarication: they must have seen all that took place; but they are the friends of the prisoner, and decline giving evidence. It does not appear, however, that their evidence is absolutely necessary to support the conviction. The circumstantial evidence appears alone sufficient for that purpose. The quarrel is admitted, and the arm of the prosecutor is found broken by a blow of a stick, not by a fall. The conclusion appears obvious: prisoner is guilty of serious assault, and is sentenced to imprisonment with hard labour, for three (3) months, and for one (1) month on conjee diet; he is further fined fifty (50) rupees, in default imprisonment with hard labour, for a further period of three (3) months.

As the prosecutor is a poor man, and will be disabled for many months, the fine, if recovered, to be given to him. (Reg. XIV. of 1827, Sect. XXIX. Clause 1st.)

Minute recorded by Mr. M. Larken.—In support of his accusation, the complainant mentioned two persons as eye-witnesses of the assault, whose evidence, however, is to the effect that they saw no assault. His other witness is the person who set his broken arm, who deposes that the injury must have been done by a blow, not by a fall. The Assistant Magistrate says the two first witnesses were unwilling ones, and prevaricated; and he puts their evidence aside, and convicts the prisoner upon his admission that there had been a dispute, and because the Koolee who set the arm said it must have been broken by a stick. I do not think the conviction is sound. The defence is that the complainant fell down and broke his arm; and in the absence of other proof, the

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Koolee's evidence can scarcely be allowed the weight given to it by the Assistant Magistrate.

I would call for a report from the Magistrate upon the petitioner's allegation that the witness Aba Mookun was fined.

Minute recorded by Mr. W. H. Harrison.—I do not see cause to interfere with the conviction, but the sentence of conjee diet should be annulled, as an injudicious punishment for so long a period.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

Minute recorded by Mr. A. Remington.—The assault not being proved by any evidence, the conviction must, I think, be annulled, and the prisoner's discharge should be ordered forthwith.

Final Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled, and the prisoner is to be discharged.

The Magistrate is to be requested to report upon the petitioner's allegation that the witness Aba Mookun was fined.*

* *Return of the Magistrate to this Precept.*—The Magistrate, in returning this Precept duly executed, has the honour to report that the prisoner has been discharged, as directed.

Aba Mookun was fined by the Assistant Magistrate in the sum of Rs. 15, commutable to one month's imprisonment, under Act XXX. of 1841, for prevarication in open Court, in despite of repeated warnings to be careful, and speak the truth.

The imprisonment in commutation was recorded as to be accompanied with hard labour.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be informed that the omission on Mr. Ashburner's record of the trial of any mention of his having fined the witness, Aba Mookun, was very improper.

The Court have held that Act XXX. of 1841 does not apply to prevarications, and the Magistrate is to be requested to refer his First Assistant to Circular Order No. 371.

Mr. Ashburner's order is annulled, and the fine is to be restored to Aba Mookun.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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DHARWAR.

[Case No. 27 of the Calendar of the Dharwar Sessions Court for 1855. Committed by Mr. J. H. PELLY, Supernumerary First Assistant Magistrate, on the 26th February 1855. Tried by Mr. A. W. JONES, Session Judge, on the 5th, 7th, and 28th April, and 1st May 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Husunia wulud Hoosein Saheb, Mussulman, aged 35. Murder.

Charge.—Murder (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st); in having, on the morning of Friday, the 12th January 1855, (corresponding with Poush Wud 9th, Shuké 1776,) within the limits of Heera Hurkoonee, in the Turus Mahal, in the Hooblee Talooka of the Dharwar Division and Zillah, struck and wounded one Eerbusapa bin Busetapa, on the stomach and elsewhere, with a sickle, in consequence of which wounds he, the said Eerbusapa, died the next day, that is on the 13th January.

Finding and Sentence by the Session Judge.—In this case the prisoner is charged with murder, and pleads not guilty.

It appears that on the morning of Friday, 12th January last, a man named Eerbusapa was returning with his two partners from his field in Heera Hurkoonee, all three having loads of tobacco on their heads, and that when they came to a 'kula' or threshing-floor, close to the entrance of the village, Eerbusapa was stopped by a man and woman, who asked for a leaf of his tobacco, and while they were taking the leaf out of the bundle on his head, the prisoner, who was working in the kula close by, came out, and asking only whether the tobacco was good, plunged a sickle he had in his hand into Eerbusapa's stomach. He struck at him a second time, but was seized,

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and his hand caught hold of by witness No. 2, upon which he desisted from further violence, and went back into the kula.

Eerbusapa, although he fell on receiving the blow, contrived afterwards to walk to the village, and get home; but though well enough to give his deposition on solemn affirmation in the course of this Friday, he died the next day.

The Inquest Report, proved before the Court, shows he died of a severe wound in the stomach; and the evidence of the witnesses Nos. 1 and 2, with the deposition of the deceased, proved before the Court, together with the statement of the prisoner, which he has admitted before the Court, leaves no doubt that he (the prisoner) did kill the deceased with a sickle, as described in the charge.

From the peculiar appearance and conduct of the prisoner, however, the Session Judge thought it right, as requested by the Vukeel, to consult the Civil Surgeon with respect to him, and that gentleman, after having had him under his charge for three weeks, has deposed that the prisoner is now of unsound mind.

It will be seen, however, that the witnesses who speak of the prisoner say he is a man of good character, and that he always did whatever he had to do sensibly and well; and the Civil Surgeon, however, says that though he is now of unsound mind, yet he is quite capable of judging between right and wrong.

If this is so, his state of mind does not appear to the Session Judge to be such as to relieve him from the consequences of his actions.

It is true that there certainly does not appear any very distinct cause of enmity between the prisoner and the deceased, since it is allowed in the deposition of the latter that he had left off asking the prisoner for his debt; and the other cause of ill-will given by the deceased is denied

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by the prisoner; and, moreover, if the facts were true, would scarcely, after such a long time had passed, account for his committing murder so openly: and therefore, considering that he is now pronounced to be of unsound mind, the presumption would be that he must also have been so when he attacked the deceased in the presence of three or four witnesses, close to the village, and in broad daylight. But Act IV. of 1849 says it is necessary that the Court shall find the person accused "was unconscious, and incapable of knowing, *at the time of doing* the said act, that he was doing an act forbidden by the law"; and as in the face of the evidence of the Civil Surgeon,* that the prisoner is capable of judging between right and wrong, the Session Judge cannot come to this conclusion, he is of opinion that the prisoner must be convicted of murder; in having, on the morning of Friday, the 12th January 1855, (corresponding with Poush Wud 9th, Shuké 1776,) within the limits of Heera Hurkoonee, in the Turus Mahal, in the Hooblee Talooka of the Dharwar Division and Zillah, struck and wounded one Eerbusapa bin Busetapa, on the stomach and elsewhere, with a sickle, in consequence of which wounds he, the said Eerbusapa, died the next day, that is on the 13th January.

And after considering that the prisoner is now said to

* *Evidence of the Civil Surgeon.*

Q.—Will you state your opinion of the state of the prisoner's mind during the time he has been under your observation?

A.—The prisoner has been in the Jail Hospital, under my observation, during the last three weeks. As far as I can judge, he appears to be of unsound mind. He is quite capable of judging between right and wrong, but entertains a delusion, which amounts to monomania, by an impression that he is at times under the influence of an evil spirit, whose dictates he must obey.

I cannot say how long he may have been affected in this manner. I have formed my opinion from repeated conversations with him, during which we have talked over the murder with which he is charged.

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be of unsound mind, and the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed :—

That you, Husunia, be transported across the seas, for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. M. Larken.—I would confirm the conviction ; but as the prisoner is not a proper subject for transportation, he should (under the spirit of Act XIV. of 1844) be sentenced to imprisonment for life ; and the Civil Surgeon having deposed that he is of unsound mind, the Government should be recommended to issue a warrant, under Section VI. Act IV. of 1849, for his safe custody in a lunatic asylum.

Minute recorded by Mr. W. H. Harrison.—In this case it is proved that the prisoner ripped open the deceased Eerbusapa with a sickle, so that he died the next day. There was, according to the evidence on record, no immediate provocation for this act, and that which is subsequently mentioned,—a debt of small amount,—would seem insufficient to account for it, did we not know what slight provocations to such a crime, brooded over, are sometimes the exciting cause of murder.

The Session Judge, on the ground of some strangeness in the prisoner's manner on trial, postponed the inquiry for his state of mind to be observed, and after this took the Civil Surgeon's evidence, which is to the effect that he is of unsound mind,—able to distinguish between right and wrong, but believing himself subject to an uncontrollable impulse. The evidence in general shows that the prisoner has never previously exhibited any symptoms of insanity, and that he exhibited none on the occasion of the murder with which he is charged. The appearance of any such on trial must be liable to grave suspicion that they are feigned, from the evident object

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in view. I cannot come to the conclusion in this case that the prisoner was incapable of knowing right from wrong when he assaulted the deceased, and gave him his death wound, so as to render him not liable to punishment for such act; or that he is insane now, so as to render him an unfit object for such punishment.

I should confirm the sentence.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed; referred to a third Judge on the sentence.

Minute recorded by Mr. A. Remington.—I concur with Mr. Larken's view of the case.

Final Resolution of the Sudder Foujdaree Adawlut.—The prisoner is sentenced to imprisonment for life.

The proceedings to be laid before Government, with reference to Section VI. Act. IV. of 1849, in view to the convict's safe custody in a lunatic asylum.

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POONA.

Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. } Puisne Judges.

[Case No. 19 of the Calendar of the Poona Sessions Court for 1855. Committed by Rao Bahadoor NANA MOROJEE, Deputy Magistrate, on the 26th January 1855. Tried by Mr. R. KEAYS, Session Judge, on the 29th March, and 4th, 5th, 21st, and 23rd April 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners Dadajee Ramchunder and Raojee bin Ramjee.]

Conspiracy.

Prisoners.—No. 1, Moroo bin Nana, Koonbee, aged 35.

2, Oodajee bin Esajee, Koonbee, aged 40.

3, Gianoo bin Nana, Koonbee, aged 21.

4, Madhaogeer Gooroo Dowlutgeer, Gosavee, aged 30.

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Prisoners.—No. 5, Dadajee Ramchunder, Brahmin, aged 45.
6, Raojee bin Ramjee, Koonbee, aged 18.
7, Narayen bin Hunmuntrow, Koonbee, aged 25.
8, Roopa bin Deojee, Koonbee, aged 30.

Charge.—Conspiracy (Regulation XVII. of 1828, Section I.) ; in that, under date 22nd November 1854, (corresponding to Margsheersh Shood 2nd, Shuké 1776,) in the city of Poona, they conspired together, and at about 9 o'clock at night, four of them, viz. prisoners No. 1 (Moroo), No. 2 (Oodajee), No. 3 (Gianoo), and No. 6 (Raojee), entered the houses of the complainants Shaik Babun wulud Daood, and Esoo bin Narayen, whilst the rest stood out, and falsely intimated to them that they were Government people, and had been deputed to search their houses, and secure any apparatus for smoking opium, if any such could be found ; and then extorted from the first-mentioned complainant Rs. 3, and from the second Rs. 1-11-0, apparently as a consideration for letting them off ; thus all of them entered into a combination to effect a corrupt purpose by illegal means.

The prisoners plead not guilty.

Finding and Sentence by the Session Judge.—The prisoners are accused of conspiracy, in having, under the pretence that they were Government servants, entered the house of complainant Shaik Babun, and searched it, with the alleged intention of ascertaining whether any apparatus for smoking opium could be found ; and having discovered some, received from the said Shaik Babun the sum of Rs. 3, in consideration of taking no further steps to bring the matter to the notice of the Foujdar ; thereby entering into a combination to effect a corrupt purpose by illegal means.

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The prisoners severally plead not guilty.

With regard to the prisoners No. 1 (Moroo), No. 3 (Gianoo), No. 4 (Madhaogeer), and No. 8 (Roopa), these prisoners have confessed, and before this Court have fully admitted their confessions. Regarding their cases, therefore, small comment is necessary. They were not the principal parties in the conspiracy, and were all of them seduced to enter into it by the other prisoners, whose tools they were. This will receive due consideration in passing sentence. These prisoners are convicted on their own confessions, corroborated by the evidence, under the provisions of Section XXXVII. Regulation XIII. of 1827.

Regarding the other prisoners, it is necessary to enter more into detail.

The outline of the case is, that on the date, and at the time specified in the charge, they, under the pretence that they were Government servants, deputed to make the inquiry, made a formal search of the complainant Shaik Babun's house, for apparatus used for opium-smoking; and having been successful in their search, they extorted from the complainant the sum of Rs. 3 as hush-money.

In performing this the prisoners No. 2 (Oodajee) and No. 6 (Raojee) appear to have personated Government Peons, and the prisoner No. 5 (Dadajee) the Government Karkoon.

From the statement of the complainant, it appears that on the night in question he was just about to sit down to his evening meal, when the prisoners No. 1 (Moroo), No. 2 (Oodajee), No. 3 (Gianoo), and No. 6 (Raojee) entered his house, and told him that they had come to search it for 'chandole' or opium-smoking apparatus. Raojee (prisoner No. 6) had on a belt, and prisoner No. 2 (Oodajee) a dark coat; and as the prisoner No. 5 (Dadajee), who was outside in the veranda, looked like

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a Karkoon, he considered that they were Government servants, and offered no resistance to the search. Some smoking apparatus having been discovered, they were about to take him away, when he asked to be permitted to eat before he went. After a little while, they suggested to him that if he were taken to the Mamlutdar he would be fined, and that he had better make things square by giving them something as hush-money. The sum they at first offered to receive was Rs. 10, which being more than he could afford, it was agreed upon, after a consultation with the prisoner No. 5 (Dadajee), that he should give them Rs. 3. He had only Rs. 2, and so his wife Yemoonee went out and mortgaged an ornament, and brought the other rupee, and he says that he gave the whole to the prisoners No. 1 (Moroo) and No. 3 (Gianoo). That the prisoners on this went away, and complainant, then suspecting that he had been imposed upon, caused the prisoners No. 1 (Moroo) and No. 2 (Oodajee) to be apprehended whilst they were on their way home.

The statement is corroborated on all important points by the witness Yemoonee; the only discrepancies being that she does not mention the prisoner No. 2 (Oodajee) as having entered the house, and says that complainant gave the Rs. 2 to prisoner Raojee, to whom she also gave the one rupee in copper, which he divided with prisoner No. 3 (Gianoo).

From the above evidence, however, as well as from that of Aloopchund, the extract from his accounts, and the statement of Hajee Mahomed, it is quite clear that money was received by the party. It also seems proved that some chundole apparatus was found in the house. The fact, therefore, of their leaving the house without the complainant, affords a violent presumption, amounting to proof, that they did receive the money to hush the matter up.

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The prisoners, in their defence, have pointed out that the evidence of the witnesses is full of discrepancies, which, they contend, renders it invalid. The principal discrepancies, however, have been noticed above; and the Court does not consider that they affect the general facts of the case.

The prisoner No. 5 (Dadajee) would wish the Court to believe that he had been otherwise employed at the time the offence occurred; and in support of this he cited several witnesses, who were examined for the defence, to establish an *alibi*. A perusal of the evidence shows how signally he has failed in this attempt.

He has also urged that he was *not* proved to be present. In this also the Court cannot agree with him. The Court is of opinion, that brought as he was into communication with the prisoners in the consultation regarding the amount to be paid, the complainant was quite sufficiently near to be able distinctly to recognise the prisoners; and looking also at the statement of the approver, and that of several other witnesses, the Court cannot entertain a doubt but that he was present, and acted the part of Government Karkoon on the occasion.

With regard to the prisoner Raojee, there can be no doubt that he was present, and was one of the principal performers.

He was at that time a Government Sepoy, and wore his belt. The evidence of the Mamlutdar was taken to ascertain whether he had given this Peon any instructions to search the complainant's house. From his evidence it appears, that so far from it, he was at that time employed, or ought to have been so employed, in issuing proclamations in some villages near and about Poona. This being so, the Court considers that he is also guilty of the offence with which he is charged. The prisoner Oodajee was distinctly recognised by these parties, who all describe the way in which he was dressed. Under

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these circumstances, the Court also convicts the prisoners No. 2 (Oodajee), No. 5 (Dadajee), and No. 6 (Raojee) of conspiracy.

Having duly considered the nature of the offence proved against the prisoners, and the amount of punishment allowed for the same under the Regulations, the Court passes the following sentence :—

That you, prisoners No. 2 (Oodajee bin Esajee), No. 5 (Dadajee Ramchunder), and No. 6 (Raojee bin Ramjee), do each suffer six (6) months' imprisonment, with hard labour.

That you, prisoners No. 1 (Moroo bin Nana), No. 3 (Gianoo bin Nana), No. 4 (Madhaogeer Gooroo Dowlutgeer), and No. 8 (Roopa bin Deojee), do each suffer two (2) months' imprisonment, with hard labour. (Regulation XVII. of 1828, Section I.)

* * * * * *

With reference to the charge of extortion from complainant Yesoo, the Court has above recorded its opinion that it should have formed the subject of a separate case. An extract from these proceedings is therefore sent to the Deputy Magistrate, who is directed to hand up the prisoners for trial on a separate charge.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoners is rejected.

Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

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RUTNAGHERRY.

[Case No. 2 of the Calendar of the Rutnagherry Sessions Court for 1855. Committed by Mr. G. SCOTT, First Assistant Magistrate, on the 16th December 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 18th, 19th, and 20th April 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Prisoners.—No. 1, Krushnajee bin Kanojee Tarkur, Bhundaree, aged 60.
2, Muthooray, the wife of Krushnajee bin Kanojee, Bhundaree, aged 35.
3, Wamnajee bin Krushnajee Takra, Bhundaree, aged 40.
4, Witojee bin Yesjee Rant, Bhundaree, aged 35.
5, Pandoo bin Ragojee Morey, Bhundaree, aged 20.

Attempt to Commit Murder; and Aiding in the Commission of the Offence.

Charge.—Against prisoner No. 1, attempt to commit murder (Regulation XIV. of 1827, Section XXVI., and Section I. Clause 2nd); *in* having, on the night of Wednesday, the 11th of October 1854, (corresponding with Boodwar, Ashwin Wud 5th, Shuké 1776,) at a place called Gotun, in the village of Jaitapoor, and Viziadroog Talooka, of the Rutnagherry Division of the Konkun Zillah, purposely, and without justifiable or extenuating cause, with a knife or other sharp instrument, struck the complainant Babia bin Luxshmun Powar, of the said village, twice, on the stomach, inflicting two wounds, one on the right side below, and the other on the left side above, the navel, thereby causing the entrails to protrude, and with the intention of depriving him of life.

And against prisoners Nos. 2 to 5, aiding in the commission of the above offence (Regulation XIV. of

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1827, Section I, Clause 5th); in having, at the above time and place, prisoner No. 2, at the request of prisoner No. 1, thrown him the knife or other sharp instrument with which the assault was committed, to where he was able to lay his hand upon it, and prisoners Nos. 3, 4, and 5 held the complainant Babia, so that prisoner No. 1 was enabled to wound him as above described.

Finding and Sentence by the Session Judge.—The prisoners in this case are charged, No. 1 (Krushnajee) with attempt to commit murder, and Nos. 2 to 5 (Muthooray, Wamnajee, Witojee, and Pandoo) with aiding in the commission of that offence; and severally plead not guilty.

It is probable that some more serious misunderstanding must previously have existed, but the immediate cause of the quarrel between Krushnajee (prisoner No. 1) and the complainant Baba Powar, which ended in the former stabbing the latter with a knife, in two places near the navel, appears to have been Baba Powar having persuaded Yesoo Manjrekur not to let Krushnajee (who had sent his servant to purchase some on the night of the assault) have any liquor.

But be this as it may: on his way home from Yesoo's shop, as the complainant was passing Krushnajee's house, at about 8 P. M., he heard him abusing somebody, and on asking him who it was, he replied, "Why should I tell you? I am abusing you." The complainant Baba seems to have retaliated, and Krushnajee (prisoner No. 1) then calling in the aid of his three servants, prisoners Nos. 3, 4, and 5 (Wamnajee, Witojee, and Pandoo), and receiving from his wife Muthooray (prisoner No. 2) a knife, stabbed him in two places near the navel, inflicting wounds from which the entrails protruded, and then, with his wife and servants, absconded.

The evidence of the complainant (Baba Powar), and of the witness Dhondee (Nos. 1 and 3), clearly establishes that the wounds in question were inflicted by

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prisoner No. 1 (Krushnajee), as described in the charge; and their testimony is corroborated in other respects by the depositions of the remaining witnesses recorded for the prosecution, Yesjee or Yesoo (No. 2), who deposes regarding what occurred at the liquor shop; Raga or Ragoo (No. 4), the complainant's son, who deposes to finding his father lying on the road near to the house of Krushnajee (prisoner No. 1), with his entrails protruding from two wounds near the navel; to his having procured a man to sew them up, and given information to the Police; and the Foujdar Vishram (witness No. 5), who also describes the state in which he found the complainant, lying in the veranda of Krushnajee's house, to which he had been removed, with his wounds partly sewn up; and to all of the prisoners having absconded.

The same evidence also establishes the fact of prisoner No. 2 (Muthooray) having aided in the assault, by furnishing prisoner No. 1 (Krushnajee, her husband) with the knife with which it was perpetrated; and of prisoners Nos. 4 and 5 (Witojee and Pandoo) having also aided in it, by holding the complainant (Baba Powar) whilst it was committed.

The prisoner Wamnajee (No. 3) having, as recorded in the body of these proceedings, been admitted as a witness, and having perjured himself, has been made over to the Magistrate, for such proceedings as may be deemed requisite.

Prisoners Nos. 1 and 2 (Krushnajee and Muthooray) have failed in establishing the defence they set up,—and it is otherwise too preposterous to be credited; and prisoners Nos. 4 and 5 (Witojee and Pandoo) make no defence, denying also their statements made before the Police, and admitted before the Acting First Assistant Magistrate.

The Court doubts whether it was the intention of prisoner No. 1 (Krushnajee) to murder the complainant,

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though it is astonishing that he escaped with his life; and he is therefore, under the above circumstances, convicted of serious assault, as described in the definition of the charge, excepting the words "and with the intention of depriving him of life"; and prisoners Nos. 2, 4, and 5 (Muthooray, Witojee, and Pandoo) of aiding in the commission of the same offence.

And after maturely considering the nature of the offences committed, the degree of guilt attached to each prisoner, the age of Krushnajee (prisoner No. 1), and the punishment provided for the same by Regulation XIV. of 1827, Section XXIX. Clause 1st, and Section I. Clause 5th, the following sentence is passed:—

That you, Krushnajee bin Kanojee Tarkur, be imprisoned for four (4) years, of which eleven (11) months of each year are to be with hard labour, and one (1) month solitary; that you pay a fine of five hundred (500) rupees, or be further imprisoned with hard labour for two (2) years; and that at the expiration of your imprisonment you be made over to the Magistrate for precautionnary measures, under the provisions of Section XLI. Regulation XIII. of 1827.

That you, Muthooray, the wife of Krushnajee bin Kanojee Tarkur, be imprisoned and kept to hard labour for one (1) year.

And that you, Witojee bin Yesjee Rant, and you, Pandoo bin Ragojee Morey, be each of you imprisoned with hard labour, for six (6) months.

Minute recorded by Mr. A. Remington.—The conviction of prisoner No. 1 (Krushnajee) for serious assault is good, but the sentence may, I think, be mitigated.

The evidence against Muthooray (prisoner No. 2, the wife of prisoner No. 1) was to the effect that, being desired by her husband to give him a knife, she threw one towards him. This single act does not, I think, constitute her a principal in the assault, which was sudden,

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and of which she may have had no clear expectation; and there is no other proof of concert with her husband.

I would acquit Muthooray; but the conviction and sentence passed upon prisoners Nos. 4 and 5 should not be interfered with.

Minute recorded by Mr. W. H. Harrison.—It appears to me that there is no reason to interfere in regard to the conviction of these prisoners, except as to No. 2, in respect to whom the case is weaker than against the others, she also being the wife of prisoner No. 1. The Civil Surgeon's evidence should have been taken as to the probability of such serious wounds as are represented to have been inflicted having healed as deposed to.

I concur in some mitigation of the sentence upon Krushnajee.

Resolution of the Sudder Foujdaree Adawlut.—The sentence passed on prisoner No. 1 (Krushnajee bin Kanojee) is mitigated to two (2) years' imprisonment, with hard labour, and the fine of Rs. 500, with the commutation, as awarded by the Session Judge.

The conviction of prisoner No. 2 (Muthooray), the wife of Krushnajee bin Kanojee, is annulled, and the prisoner is acquitted, and to be discharged.

The petition of prisoners Nos. 4 and 5 (Witojee bin Yesjee and Pandoo bin Ragojee) is rejected.

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Present, { ASHNESS REMINGTON, Esq.
WM. HENRY HARRISON, Esq. } Puisne Judges.

[Case No. 39 of the Calendar of the Konkun Sessions Court for 1855. Committed by Mr. R. H. SHOWELL, Deputy Magistrate, on the 12th May 1855. Tried by Mr. C. M. HARRISON, Session Judge, on the 8th, 9th, and 11th June 1855. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.

Murder.

Prisoner.—Murlia bin Rudka Duswunt, Warlee, aged 25.

Charge.—Murder (Regulation XIV. Section XXVI. Clause 1st, of 1827); in having, on Saturday, the 3rd March 1855, (corresponding with Shunwar, Falgoon Shood 15th, Shuké 1776,) at Moujé Keynad, Talooka Sunjan, Zillah Konkun, purposely, and without justifiable or extenuating cause, deprived of life one Lukma Sowjee, Warlee, aged forty years, by striking him on the head with the butt-end of a firelock, from the effects of which blow he died before daybreak the following day.

Finding and Sentence by the Session Judge.—The prisoner is charged with murder, and pleads not guilty.

It is in evidence that the deceased Lukma, his nephew Baloo (the complainant), and his niece Nudgee, with her second husband Chatia, all lived together, and that Nudgee was formerly married to the prisoner at the bar, who discarded her. This happened about three years ago; and he seems since to have constantly been in the habit of applying to them for the purpose of getting his marriage expenses returned, and to have made this, and the re-marriage of his wife, a subject of dispute with the family, of whom the deceased Lukma was the head.

Such being the case, on Saturday, the 3rd March last (the principal day of the Hoolee), the prisoner, having partaken of some liquor, went with a gun in his hand to the Hoolee, where he discharged it, and then, in an

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excited state, proceeded to the deceased's house, where he found Lukma, Baloo, and others sitting, and where, after abusing them, and demanding his money, a scuffle took place between Baloo and himself, and the former (evidently fearing mischief) wrenched the gun from him, and took and concealed it in the house of Murkuria, who is a connexion of the deceased's.

The prisoner then went home, and shortly afterwards returned, and overhearing where the gun had been placed, proceeded to Murkuria's. There he again met Lukma and Baloo, and with the latter he had another scuffle, which ended in his obtaining possession of the gun, and immediately, with the but-end, striking Lukma a blow on the right side of the head, which broke the stock of the gun (so it is said), felled him to the ground, and from the effects of which he early the next morning died.

The injury on the right side of the head, described in the Inquest Report (though it does not distinctly state so), leaves no doubt on the mind of the Session Judge that the skull was fractured (it could not otherwise have become soft and indented, as stated), or that it was the cause of deceased's death.

And that this injury was caused from a blow inflicted with the but-end of a gun by the prisoner, under the circumstances stated in the indictment, is proved by the evidence of the complainant Baloo (witness No. 6), of the witness Murkuria (No. 8), and the prisoner's own statement, admitted by him before the Court, and recorded for the prosecution No. 9.

It appears to the Session Judge quite immaterial whether the stock of the gun was broken against the deceased's head, or by afterwards striking against a post of the house. The force with which it fell upon the deceased having been sufficient to cause injury, terminating so shortly in death, would have rendered the prisoner's guilt equally great had it not been broken at all.

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As the head of the family, it was to him doubtless that the prisoner looked for repayment of his expenses, and as the principal mover in the re-marriage of his wife with another; and thus, excited by liquor, this sudden assault upon him may be accounted for.

The prisoner pleads intoxication in excuse; but it has been declared by no less an authority than Russell (see his Work on Crimes, Vol. I. page 7), as a settled rule, that if the drunkenness be voluntary, it cannot excuse a man from the commission of any crime, but, on the contrary, must be considered an aggravation of whatever he does amiss.

Being unable, therefore, after mature deliberation, to find any circumstances of extenuation in this case, warranting the prisoner being convicted of a minor offence, or justifying other than a capital sentence, he is convicted of murder; in having, on Saturday, the 3rd March 1855, (corresponding with Shunwar, Falgoon, Shood 15th, Shuké 1776,) at Moujé Keynad, Talooka Sunjan, Zillah Konkun, purposely, and without justifiable or extenuating cause, deprived of life one Lukma Sowjee, Warlee, aged forty years, by striking him on the head with the but-end of a firelock, from the effects of which blow he died before daybreak the following morning. And after maturely considering the nature of the offence committed, and the punishment provided for the same by Clause 4th, Section XXVI. Regulation XIV. of 1827, the following sentence is passed:—

That you, prisoner Murlia bin Rudka Duswunt, be hanged by the neck until you be dead, at the usual place of execution at Tanna. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Minute recorded by Mr. A. Remington.—The Session Judge held, on the authority of Russell, that intoxication cannot excuse the commission of crime; and I concur that that which, in drunkenness voluntarily brought on, a man commits, he must answer for when sober.

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It appears that the gun was wrested from the prisoner's hands by one of the complainants, caused, as he deposed, by the prisoner's abuse; but that party are not on good terms with Murlia, in consequence of his wife, to whom they are related, having left him, and married another. The day, too, was the Hoolee, a season of great license; and the probability is that all parties were worse for liquor at the time.

No provocation, however, is said to have been given by deceased, and there was certainly ill-will towards him in the prisoner's mind, on account of the desertion of his wife; and the conviction cannot be interfered with, though the punishment might be mitigated to transportation.

Minute recorded by Mr. W. H. Harrison.—In this case I do not see cause to differ from the conclusion recorded by the Session Judge.

The evidence shows that the deceased met his death at the hands of the prisoner, and, under the circumstances, he was rightly convicted of murder. I think the sentence might be commuted, from the want of premeditation apparent, and the blow having been struck in the course of a drunken brawl.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed, and the prisoner is sentenced to transportation for life.

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Present, { ASHNESS REMINGTON, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

RUTNAGHERRY.

[Case No. 2 of the Calendar of the Konkun Sessions Judge on Circuit, for 1854. Committed by Mr. B. H. BOSWELL, Second Assistant Magistrate of Rutnagherry, on the 7th November 1854. Tried by Mr. C. M. HARRISON, Session Judge, on the 16th November 1854, and 26th and 27th April 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Serious Assault.

Prisoner.—Gopal bin Soobhana, Koonbee, aged 40.

Charge.—Serious assault (Regulation XIV. of 1827, Section XXIX. Clause 1st); in having, on the 8th August 1854, (corresponding with Mitee Shrawun Shood 15th, Shuké 1776,) in the village of Adgaum, Turuf Kelshee, Talooka Soowurndroog, Zillah Rutnagherry, about 2 P. M., attacked complainant Sukaram bin Mhadooshet, who was in his house, inflicting with a sword, and a hook used for cutting wood, a number of severe blows on his head, shoulder, and other parts of his person, thereby causing him great bodily pain.

Finding and Sentence by the Session Judge.—The prisoner is charged with serious assault, and pleads guilty.

The case was commenced at the last Sessions, and postponed by the then Session Judge, Mr. Keays, that the prisoner might be watched by the Civil Surgeon, to enable him to give an opinion regarding his state of mind.

Having now been examined, the Civil Surgeon, in his deposition, states that he considers him to be capable of judging between right and wrong, and to be responsible for his actions; and further, that after watching him six months, he has seen nothing in him which would lead to the belief that he was otherwise when the offence with which he stands charged was committed.

The Session Judge has also carefully watched the prisoner during the trial, and from his over-acting when he thought he was observed, and his attention to the

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proceedings and sensible answers when he lost sight of this, has been led to the conclusion that the above opinion is correct.

Unless it be that specified by the complainant, viz. that the prisoner was instigated to the act by others inimical to him, it is difficult to assign a motive for so savage an assault; but it is only where there are other strong evidences of insanity that the absence of motive can favour the view of irresponsibility for crime (see Taylor's Medical Jurisprudence, page 796), and in this case no such strong evidence exists.

The prisoner pleaded guilty; and the charge is otherwise brought home to him by the evidence of the complainant (witness No. 3), of the Police Lance Naique (witness No. 4), and also by his own confession (No. 7), proved to have been freely and voluntarily made, without force or compulsion, by witnesses for the prosecution Nos. 5 and 6.

The prisoner makes no defence; and he is, under the above circumstances, convicted of serious assault; in having, on the 8th August 1854, (corresponding with Mitee Shrawun Shood 15th, Shuké 1776), in the village of Adgaum, Turuf Kelshee, Talooka Soowurndroog, Zillah Rutnagherry, about 2 P. M., attacked complainant Sukaram bin Mhadooshet, who was in his house, inflicting with a sword, and a hook used for cutting wood, a number of severe blows on his head, shoulder, and other parts of his person, thereby causing him great bodily pain.

The scars on the complainant's head and body show some of the wounds inflicted by the prisoner to have been very severe, and the number of them very great. And after maturely considering, therefore, the nature of the offence committed, and the punishment provided for the same by Section XXIX. Clause 1st, Regulation XIV. of 1827, the following sentence is passed:—

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That you, Gopal bin Soobhana Dowra, be imprisoned for five (5) years, of which eleven (11) months of each year are to be with hard labour, and one (1) month solitary; and that you receive fifty (50) stripes on your bare back with a cat-o'-nine tails, twenty-five (25) one month from this date, and twenty-five (25) one month thereafter.

Minute recorded by Mr. A. Remington.—In addition to the evidence of the Civil Surgeon, the Patel of the prisoner's village, and some of his relations, should have been examined, as to his former character and behaviour.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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Present, { ASHNESS REMINGTON, Esq. / METCALFE LARKEN, Esq. / WM. HENRY HARRISON, Esq. } Puisne Judges.

[Petition of Piloorow bin Bapoojee to the Sudder Foujdaree Adawlut, for a revision of former decisions in his case.]

Application to Review a Case, the result of which led to the Petitioner's Dismissal from the Public Service.

Petition of Piloorow bin Bapoojee.—I was charged with having received a bribe of Rs. 15, and sentenced on the 6th July 1846, by Mr. Mansfield, Assistant Magistrate, to suffer three months' imprisonment. Thereupon, having made an appeal against that decision to this Honorable Court, it was referred to Mr. Frere, the Session Judge of Dharwar, and on receipt of the report of that functionary, the same was rejected. Before the final decision of my appeal was communicated to me, I was set at large, in consequence of the term of imprisonment awarded against me having expired. In the mean time I went towards my native country, in the Madras Presidency, to seek the support of some of my relations who reside in that part, and there for some days I served

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as a candidate, and latterly as a temporary Karkoon, on the establishment of the Collector of the Bellary Zillah. While thus employed, I received an order from the Collector of Bellary, whereby it became necessary for me to come before this Honorable Court to seek redress. Though the sentence was awarded against me in 1846, yet from the date of this order I have been led to suffer its consequences.

In this distressed state of circumstances I made a further petition of appeal to this Honorable Court on the 23rd of May last, which was rejected, on the ground that nine years had elapsed, and that no sufficient cause was shown for the delay in question.

But I humbly beg to submit that, as stated in the 1st paragraph of this petition, on receipt of the order of the Collector of Bellary, it became compulsory on me to make the present application: this it may be assumed is a sufficient reason assigned for the delay so strongly urged against my appeal being admitted. The order in question directs me to obtain a certificate from the superior Authorities of this Presidency if I wish to be restored to my place, *i. e.* if I be desirous to serve in the Bellary Zillah. Consequently, I sincerely pray that this Honorable Court would be pleased to call for the papers of my case, and institute inquiries into its merits, as by such being done I am confident that I would be declared blameless.

The case against me has been from the beginning conducted in quite a contradictory manner to the Regulations, and I think that such injustice as I have been treated with was never seen in any one's case at all, which will be apparent from the following paragraphs:—

As already stated, I had made a petition to this Honorable Court, praying that the proceedings in my case being sent for, the sentence passed against me should be annulled; but the proceedings were not called for, and the

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petition was referred to the Session Judge for inquiry. On receipt of the report showing this result of that functionary's investigation, the same was rejected; and it does not appear that such a course was adopted in any one's case; as, when my application was admitted for inquiry under the Regulations in force, and the practice of the Courts, the Court should have sent for the proceedings, which have not come before the Court up to this day. My petition was rejected upon the opinion expressed by the Session Judge in his report, which, however, does not show that the reasons set forth in my petition were capable of being thought null and void, by virtue of any certain evidence to be found in the case; hence the rejection of my petition should be taken as a very unjust course which had been followed in my case, because at the commencement of that gentleman's report he distinctly declares that he is not aware of the cause why the Court of Sudder Foujdaree Adawlut had referred to him the petition.

The Criminal Regulations do not prescribe any limitation for preferring an appeal against the decision of any subordinate Courts, and until the proceedings of my case are got before this Court, I have a right to ask the goodness to get them; and, likewise, there seems to be no Regulation in force which could prevent the Court calling for the papers, and inquiring whether there are sufficient grounds for annulling my conviction.

The cause shown for getting the proceedings in my case is this, that in the inquiry which has been held, neither the complainants nor the witnesses stated that I agreed with any certain person to receive bribes, nor that they saw any one giving them to me. The complainants state that they gave the money to the Koolkurnee, who totally denies the fact: hence it is clear, that without the charge being established against me in any way, sentence has been awarded in a most unjust manner.

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Although it is troublesome to your Honorable Court to send for the case, and institute inquiries thereby, yet, as I am left remediless, and drowned in uncommon sorrow, and suffering miserably with all my family, I pray that the Court would be so gracious as to grant the boon herein sought for, and relieve me from the yoke of injustice.

Minute recorded by Mr. A. Remington.—The petitioner desires to obtain the reversal of a judgment under which he was sentenced to undergo three months' imprisonment by the Assistant Magistrate of Dharwar, in the year A. D. 1846.

The period of imprisonment being so limited, the Court, it may be presumed, to save time, requested the Session Judge of Dharwar to review the case; and the report returned by that Officer being to the effect that he saw no reason to interfere, the petition was rejected.

The prisoner lately moved the Court to send for the proceedings, and record their own judgment upon the evidence; but he was told that no cause being assigned for the delay, the Judges could not interfere. In renewing his application, no reasons are given why he allowed so long a time to pass by without applying to the Court; and the last order cannot be varied.

His proper course is to procure copies of the proceedings, and appeal to Government, to get the prohibition against being again employed in the Public Service removed.

Minute recorded by Mr. M. Larken.—I would rather say the reason given is, that till dismissed by the Collector of Bellary he (the petitioner) did not find any need for applying for a review of his case.

Should the petitioner apply to Government, and the case be referred for our report, I am prepared to say that, if the offence be as represented, which from the light punishment may be presumed, there is no reason

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why the Government should not permit the petitioner to be re-employed.

Minute recorded by Mr. W H. Harrison.—I do not find any valid grounds set forth for altering the decision already come to on this petitioner's application, which is to re-open and investigate the mer s of a case in which, nine years ago, he was imprisoned for three months for malversation. His appeal was heard and disposed of at the time by the Sudder Foujdaree Adawlut; and if it had been otherwise, it seems to me that it would be a very bad precedent to establish that a case should be re-opened after so long a period, because of the remote consequences to petitioner. We have nothing to do with the consequences. In this instance the petitioner has been dismissed, as stated, from employment, because it became known to the Collector of Bellary that he had been imprisoned; and the reasonable inference is, that the Collector would not have employed him at all if he had known the fact: but these circumstances do not afford any grounds at all for re-opening a case after the lapse of such a period.

The petitioner should be referred to the former order.

Resolution of the Sudder Foujdaree Adawlut.—The Court consider that the reason given by petitioner for his delay in applying to the Court to review his conviction, viz. that until he was dismissed by the Collector of Bellary he had no need to move the Court, is insufficient to induce the Court to re-open a case disposed of nine years ago; and the petition is rejected.

END OF VOL. III.

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